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The

Gazette of India

THURSDAY, JULY 3, 1952

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JUL 1953

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA,

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on the 15th June, 1952, and is hereby published for general information:—

Act No. XLII of 1952

THE INDIAN TARIFF (SECOND AMENDMENT) ACT, 1952.

An Act further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Tariff (Second Amendment) Act, 1952.

2. Amendment of the First Schedule, Act XXXII of 1934.—In the First Schedule to the Indian Tariff Act, 1934,—

(*i*) for Item No. 11 (2), the following Item shall be substituted, namely:—

"11(2)	Sago flour ..	Protective	30 per cent. *ad valorem*.	..	..	December 31st, 1954.";

(*ii*) for Items Nos. 11(4) and 11(5), the following Items shall be subetituted, namely:—

"11(4)	Starch ..	Protective ..	30 per cent. *ad valorem*.	..	..	December 31st, 1954.
11(5)	Farina ..	Protective	30 per cent. *ad valorem*.	..	..	December 31st, 1954.";

(*iii*) in Items Nos. 46, 46(1), 47, 47(1), 48, 75(5), 75(6), 75(7) and 75(8), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "March 31st, 1952", wherever they occur, the word, figures and letters "December 31st, 1952" shall be substituted;

(*iv*) for Item No. 63 (30), the following Item shall be substituted, namely:—

"63(30)	Rods or bars of alloy, tool or special steel of the following categories but excluding bright drawn bars of high speed steel and of stainless, heat resisting steel and precision ground and polished bars and silver steel finish bars of all kinds:—					
	(1) High speed steel containing more than 13 per cent. tungsten.					
	(2) Stainless and heat resisting steel containing more than 11 per cent. chromium.					
	(3) Other alloy, steels not included in category (*i*) or (*ii*) containing any of the following:—					
	(*i*) 0·40 per cent. or more of chromium or nickel; (*ii*) 0·10 per cent. or more of molybdenum, tungsten or vanadium; or (*iii*) 10·00 per cent. or more of manganese—					
	(*a*) of British manufacture.	Protective	30 per cent. *ad valorem*.	..	..	December 31st, 1954.
	(*b*) not of British manufacture.	Protective	42 per cent. *ad valorem*.	..	..	December 31st, 1954."

(*v*) in Items Nos. 66 (a) and 66 (1), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "May 14th, 1952", wherever they occur, the word, figures and letters "December 31st, 1952" shall be substituted;

(*vi*) for Item No. 71(8), the following Item shall be substituted, namely:—

"71 (8)	Grinding wheels and segments made of synthetic abrasive grains, excluding the following, namely,—	Protective	50 per cent. *ad valorem*.	..	..	December 31st, 1954.
	(*i*) grinding wheels—					
	(a) of any thickness or bore but more than 21" in diameter, or					

	(b) of any diameter or bore but more than 7/8" or less than 1/8" thickness, or (c) of any diameter or thickness but more than 12½" bore; and (ii) diamond impregnated wheels.					

(*vii*) after Item No. 71(11), the following Items shall be inserted, namely:—

"71(12)	Grinding wheels and segments made of synthetic abrasive grains, not otherwise specified.	Revenue ..	25 per cent. *ad valorem*.	..	..	..
71(13)	Zip fasteners—					
	(*a*) with metal teeth other than those specified in category (*b*).	Protective	31½ per cent. *ad valorem*.	..	..	December 31st, 1954.
	(*b*) with metal teeth having not more than 9 teeth per inch on either side and in which the total width of the metal portion in the closed state is not less than 8 mm.	Revenue	25 per cent. *ad valorem*.	..	..	..
	(*c*) not otherwise specified.	Revenue	25 per cent. *ad valorem*.	..	..	

(*viii*) in Item No. 75(9)(ii), in the entry in the second column, after the word "leather", where it occurs for the first time, the word "plastic" shall be inserted.

K. Y. BHANDARKAR, Secy.

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THURSDAY, AUGUST 21, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 22nd July, 1952, and are hereby published for general information:—

ACT NO. XLIV OF 1952.

THE APPROPRIATION (No. 2) ACT, 1952.

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the service of the financial year 1952-53.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Appropriation (No. 2) Act, 1952.

2. Issue of Rs. 22,79,29,87,000 out of the Consolidated Fund of India for the year 1952-53.—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Vote on Account) Act, 1952 (XXVIII of 1952)], to the sum of two thousand two hundred and seventy-nine crores, twenty-nine lakhs and eighty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1952-53 in respect of the services specified in column 2 of the Schedule.

3. Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE.

(*See* sections 2 and 3.)

1	2	3		
		Sums not exceeding		
No. of Vote.	Services and purposes.	Voted by Parliament.	Charged on the Consolidated Fund.	Total.
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry ..	70,70,000	..	70,70,000
2	Industries	1,39,44,000	..	1,39,44,000
3	Commercial Intelligence and Statistics	45,71,000	..	45,71,000
4	Miscellaneous Departments and Expenditure under the Ministry of Commerce and Industry.	21,61,000	..	21,61,000
5	Ministry of Communications ..	9,00,000	..	9,00,000
6	Indian Posts and Telegraphs Department (including Working Expenses).	41,67,24,000	1,41,98,000	43,09,22,000
7	Meteorology	1,15,73,000	..	1,15,73,000
8	Overseas Communication Service ..	81,60,000	3,50,000	85,10,000
9	Aviation	2,82,40,000	..	2,82,40,000
10	Miscellaneous Expenditure under the Ministry of Communications.	5,46,000	..	5,46,000
11	Ministry of Defence	25,84,000	..	25,84,000
12	Defence Services—Effective—Army ..	1,66,32,44,000	..	1,66,32,44,000
13	Defence Services—Effective—Navy ..	11,25,29,000	..	11,25,29,000
14	Defence Services—Effective—Air Force	23,22,11,000	..	23,22,11,000
15	Defence Services—Non-effective charges	15,85,70,000	7,000	15,85,77,000
16	Miscellaneous Expenditure under the Ministry of Defence.	5,00,000		5,00,000
17	Ministry of Education	35,44,000	..	35,44,000
18	Archaeology	38,63,000	..	38,63,000
19	Other Scientific Departments ..	1,70,08,000	..	1,70,08,000
20	Education	3,69,46,000	..	3,69,46,000
21	Miscellaneous Departments and Expenditure under the Ministry of Education.	27,16,000	..	27,16,000
22	Tribal Areas	2,95,42,000	..	2,95,42,000
23	External Affairs	5,21,40,000	..	5,21,40,000

1	2	3		
		Sums not exceeding		
No. of Vote.	Services and purposes.	Voted by Parliament.	Charged on the Consolidated Fund.	Total.
		Rs.	Rs.	Rs.
24	Miscellaneous Expenditure under the Ministry of External Affairs.	5,03,000	..	5,03,000
25	Ministry of Finance	1,20,34,000	..	1,20,34,000
26	Customs	2,59,36,000	..	2,59,36,000
27	Union Excise Duties	6,17,75,000	..	6,17,75,000
28	Taxes on Income including Corporation Tax.	3,94,89,000	..	3,94,89,000
29	Opium	2,62,11,000	..	2,62,11,000
30	Stamps	98,82,000	5,69,000	1,04,51,000
31	Payments to other Governments, Departments, etc.	12,83,000	..	12,83,000
32	Audit	6,48,87,000	13,35,000	6,62,22,000
33	Currency	2,26,50,000	3,02,000	2,29,52,000
34	Mint	97,55,000	..	97,55,000
35	Territorial and Political Pensions ..	23,00,000	..	23,00,000
36	Superannuation Allowances and Pensions.	3,17,62,000	8,37,000	3,25,99,000
37	Miscellaneous Departments and Expenditure under the Ministry of Finance.	1,58,67,000	..	1,58,67,000
38	Grants-in-aid to States	17,71,92,000	2,55,00,000	20,26,92,000
39	Miscellaneous Adjustments between the Union and State Governments.	1,28,000	..	1,28,000
40	Pre-Partition payments	1,58,77,000	1,23,000	1,60,00,000
41	Extraordinary payments	14,24,52,000	..	14,24,52,000
	Charged—Interest on Debt and Other Obligations and Reduction or Avoidance of Debt.	..	74,58,93,000	74,58,93,000
42	Ministry of Food and Agriculture ..	46,66,000	..	46,66,000
43	Forest	36,34,000	..	36,34,000
44	Survey of India	1,02,43,000	..	1,02,43,000
45	Botanical Survey	1,46,000	..	1,46,000
46	Zoological Survey	4,27,000	..	4,27,000
47	Agriculture	3,14,75,000	..	3,14,75,000

1	2	3		
		Sums not exceeding		
No. of Vote.	Services and purposes.	Voted by Parliament.	Charged on the Consolidated Fund.	Total.
		Rs.	Rs.	Rs.
48	Civil Veterinary Services	32,92,000	..	32,92,000
49	Miscellaneous Expenditure under the Ministry of Food and Agriculture.	15,77,22,000	..	15,77,22,000
50	Ministry of Health	6,07,000	..	6,07,000
51	Medical Services	81,28,000	..	81,28,000
52	Public Health	77,53,000	..	77,53,000
53	Miscellaneous Expenditure under the Ministry of Health.	69,18,000	..	69,18,000
54	Ministry of Home Affairs	1,10,99,000	..	1,10,99,000
55	Cabinet	25,10,000	..	25,10,000
56	Delhi	1,27,10,000	..	1,27,10,000
57	Police	68,06,000	..	68,06,000
58	Census	18,69,000	..	18,69,000
59	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs.	8,96,000	..	8,96,000
60	Andaman and Nicobar Islands ..	1,48,06,000	..	1,48,06,000
61	Ministry of Information and Broadcasting.	99,36,000	..	99,36,000
62	Broadcasting	2,08,86,000	..	2,08,86,000
63	Ministry of Labour	28,93,000	..	28,93,000
64	Chief Inspector of Mines	8,93,000	..	8,93,000
65	Miscellaneous Departments and Expenditure under the Ministry of Labour.	2,75,63,000	..	2,75,63,000
66	Employment Exchanges and Resettlement.	1,41,46,000	..	1,41,46,000
67	Civil Defence	1,24,000	..	1,24,000
68	Ministry of Law	1,23,55,000	..	1,23,55,000
69	Administration of Justice ..	2,12,000	8,87,000	10,99,000
70	Ministry of Natural Resources and Scientific Research.	11,31,000	..	11,31,000
71	Irrigation (including Working Expenses), Navigation, Embankment and Drainage Works met from Revenue.	24,000	..	24,000

1	2	3		
		Sums not exceeding		
No. of Vote.	Services and purposes.	Voted by Parliament.	Charged on the Consolidated Fund.	Total.
		Rs.	Rs.	Rs.
72	Geological Survey	63,18,000	..	63,18,000
73	Mines	19,40,000	..	19,40,000
74	Scientific Research	2,40,08,000	..	2,40,08,000
75	Multipurpose River Schemes ..	41,08,000	..	41,08,000
76	Miscellaneous Departments and Expenditure under the Ministry of Natural Resources and Scientific Research.	42,89,000	..	42,89,000
77	Department of Parliamentary Affairs	1,07,000	..	1,07,000
78	Ministry of Rehabilitation ..	19,50,000	..	19,50,000
79	Expenditure on Displaced Persons ..	10,09,25,000	..	10,09,25,000
80	Miscellaneous Expenditure under the Ministry of Rehabilitation.	29,000	..	29,000
81	Ministry of States	10,97,000	..	10,97,000
82	Privy Purses and Allowances of Indian Rulers.	2,63,000	5,37,50,000	5,40,13,000
83	Kutch	96,91,000	..	96,91,000
84	Bilaspur	14,46,000	..	14,46,000
85	Manipur	46,34,000	..	46,34,000
86	Tripura	1,10,85,000	..	1,10,85,000
87	Relations with States	58,14,000	..	58,14,000
88	Miscellaneous Expenditure under the Ministry of States.	55,12,000	..	55,12,000
89	Ministry of Transport	31,02,000	..	31,02,000
90	Ports and Pilotage	68,67,000	..	68,67,000
91	Lighthouses and Lightships ..	34,05,000	..	34,05,000
92	Central Road Fund	5,40,98,000	..	5,40,98,000
93	Communications (including National Highways).	4,45,74,000	..	4,45,74,000
94	Miscellaneous Expenditure under the Ministry of Transport.	2,26,000	..	2,26,000
95	Ministry of Works, Production and Supply.	15,41,000	..	15,41,000

1	2	3		
		Sums not exceeding		
No. of Vote.	Services and purposes.	Voted by Parliament.	Charged on the Consolidated Fund.	Total.
		Rs.	Rs.	Rs.
96	Supplies	3,23,79,000	..	3,23,79,000
97	Salt	1,29,33,000	3,54,000	1,32,87,000
98	Stamp Cancelling and Printing Inks Manufacturing Factory.	2,95,000	..	2,95,000
99	Other Civil Works	12,70,55,000	20,40,000	12,90,95,000
100	Stationery and Printing	5,09,77,000	..	5,09,77,000
101	Miscellaneous Departments and Expenditure under the Ministry of Works, Production and Supply.	57,32,000	..	57,32,000
102	Parliament	1,08,29,000	1,19,000	1,09,48,000
103	Miscellaneous Expenditure under the Parliament Secretariat.	29,000	..	29,000
	Charged—Staff, Household and Allowances of the President.	..	15,44,000	15,44,000
	Charged—Union Public Service Commission.	..	18,48,000	18,48,000
104	Capital Outlay of the Ministry of Commerce and Industry.	3,20,85,000	..	3,20,85,000
105	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue).	8,10,23,000	..	8,10,23,000
106	Capital Outlay on Civil Aviation ..	1,91,63,000	..	1,91,63,000
107	Other Capital Outlay of the Ministry of Communications.	53,00,000	..	53,00,000
108	Defence Capital Outlay	17,00,00,000	..	17,00,00,000
109	Capital Outlay on the India Security Press.	9,58,000	..	9,58,000
110	Capital Outlay on Currency ..	40,000	..	40,000
111	Capital Outlay on Mints	33,02,000	..	33,02,000
112	Commuted Value of Pensions ..	99,65,000	..	99,65,000
113	Payments to Retrenched Personnel ..	2,28,000	..	2,28,000
114	Other Capital Outlay of the Ministry of Finance.	10,00,04,000	..	10,00,04,000
115	Loans and Advances by the Central Government.	17,17,38,000	1,03,84,39,000	1,21,01,77,000
	Charged—Repayment of Debt ..	..	12,99,45,37,000	12,99,45,37,000

1	2	3		
		Sums not exceeding		
No. of Vote.	Services and purposes.	Voted by Parliament.	Charged on the Consolidated Fund.	Total.
		Rs.	Rs.	Rs.
116	Capital Outlay on Forests ..	25,04,000	..	25,04,000
117	Purchases of Foodgrains	2,26,92,39,000	..	2,26,92,39,000
118	Other Capital Outlay of the Ministry of Food and Agriculture.	26,31,99,000	28,49,000	26,60,48,000
119	Capital Outlay of the Ministry of Health	1,76,10,000	..	1,76,10,000
120	Capital Outlay of the Ministry of Home Affairs.	23,70,000	..	23,70,000
121	Capital Outlay on Broadcasting ..	59,35,000	..	59,35,000
122	Capital Outlay of the Ministry of Labour	6,13,000	..	6,13,000
123	Capital Outlay on Multipurpose River Schemes.	3,06,65,000	..	3,06,65,000
124	Other Capital Outlay of the Ministry of Natural Resources and Scientific Research.	80,00,000	..	80,00,000
125	Capital Outlay of the Ministry of Rehabilitation.	30,00,000	..	30,00,000
126	Capital Outlay of the Ministry of States	3,20,05,000	..	3,20,05,000
127	Capital Outlay on Ports	2,50,00,000	..	2,50,00,000
128	Capital Outlay on Roads	6,71,87,000	..	6,71,87,000
129	Other Capital Outlay of the Ministry of Transport.	1,18,45,000	..	1,18,45,000
130	New Delhi Capital Outlay ..	2,17,36,000	89,000	2,18,25,000
131	Capital Outlay on Buildings ..	10,50,60,000	..	10,50,60,000
132	Other Capital Outlay of the Ministry of Works, Production and Supply.	6,52,46,000	..	6,52,46,000
	Total ..	7,90,74,17,000	14,68,55,70,000	22,79,29,87,000

ACT NO. XLV OF 1952.

THE INDIAN TARIFF (THIRD AMENDMENT) Act, 1952.

An Act further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Tariff (Third Amendment) Act, 1952.

2. Amendment of section 4A, Act XXXII of 1934.—In section 4A of the Indian Tariff Act, 1934 (hereinafter referred to as the principal Act),—

(*a*) in sub-section (*1*), for the words "a temporary amendment" the words "an amendment" shall be substituted; and

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) For the removal of doubts it is hereby declared that any notification approved by Parliament, whether with or without modifications, may be rescinded by the Central Government at any time by notification in the Official Gazette."

3. Validation of certain notifications.—Notwithstanding anything contained in sub-section (*3*) of section 4A of the principal Act as in force immediately before the commencement of this Act, the notifications of the Government of India in the Ministry of Finance (Revenue Division), No. S.R.O. 857 and No. S.R.O. 1008, dated the 1st day of June, 1951 and the 30th day of June, 1951, respectively, shall be deemed never to have ceased to have effect, and shall continue to be in force.

K. Y. BHANDARKAR, Secy.

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THURSDAY, AUGUST 28, 1952.

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on 19th July, 1952, and is hereby published for general information:—

ACT NO. XLIII OF 1952.

THE APPROPRIATION (RAILWAYS) NO. 2 ACT, 1952.

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the service of the financial year 1952-53 for the purposes of Railways.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Appropriation (Railways) No. 2 Act, 1952.

2. Issue of Rs. 3,60,60,37,000 out of the Consolidated Fund of India for the financial year 1952-53.—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Railways) Vote on Account Act, 1952 (XXI of 1952)] to the sum of three hundred and sixty crores, sixty lakhs and thirty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1952-53 in respect of the services relating to railways specified in column 2 of the Schedule.

3. Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

SCHEDULE.

(*See* sections 2 and 3.)

1	2	3		
No. of Vote.	Services and purposes.	Sums not exceeding		
		Voted by Parliament.	Charged on the Consolidated Fund.	Total.
		Rs.	Rs.	Rs.
1	Railway Board	32,97,000	..	32,97,000
2	Audit	34,91,000	..	34,91,000
3	Miscellaneous Expenditure ..	71,29,000	..	71,29,000
4	Working Expenses—Administration	25,69,45,000	..	25,69,45,000
5	Working Expenses—Repairs and Maintenance.	63,56,70,000	..	63,56,70,000
6	Working Expenses—Operating Staff	41,07,09,000	..	41,07,09,000
7	Working Expenses—Operation (Fuel)	23,00,01,000	..	23,00,01,000
8	Working Expenses—Operation (other than Staff and Fuel).	14,30,69,000	..	14,30,69,000
9	Working Expenses—Miscellaneous Expenses.	18,53,41,000	..	18,53,41,000
9A	Working Expenses—Labour Welfare	3,89,51,000	..	3,89,51,000
10	Payments to Indian States and Companies.	37,60,000	..	37,60,000
11	Working Expenses—Appropriation to Depreciation Reserve Fund.	30,00,00,000	..	30,00,00,000
12A	Open Line Works (Revenue)—Labour Welfare.	1,44,98,000	..	1,44,98,000
12B	Open Line Works (Revenue)—Other than Labour Welfare.	4,12,78,000	..	4,12,78,000
13	Appropriation to Development Fund	12,00,00,000	..	12,00,00,000
14	Appropriation to Revenue Reserve Fund.	11,47,07,000	..	11,47,07,000
14A	Withdrawal from Revenue Reserve Fund.	..	..	..
15	Construction of New Lines ..	48,97,000	..	48,97,000
16	Open Line Works—Additions ..	13,37,94,000	..	13,37,94,000
17	Open Line Works—Replacements ..	50,95,50,000	..	50,95,50,000
18	Open Line Works—Development Fund.	10,71,29,000	..	10,71,29,000
19	Capital Outlay on Vizagapatam Port	18,05,000	..	18,05,000
20	Dividend payable to General Revenues.	34,00,16,000	..	34,00,16,000
	Total ..	3,60,60,37,000	..	3,60,60,37,000

K. Y. BHANDARKAR, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 28th and 30th July, 1952, respectively and are hereby published for general information:—

ACT NO. XLVI OF 1952.

THE CRIMINAL LAW AMENDMENT ACT, 1952.

An Act further to amend the Indian Penal Code and the Code of Criminal Procedure 1898, and to provide for a more speedy trial of certain offences.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Criminal Law Amendment Act, 1952.

2. Amendment of section 165, Act XLV of 1860.—In section 165 of the Indian Penal Code (hereinafter referred to as the principal Act) for the words "simple imprisonment for a term which may extend to two years" the words "imprisonment of either description for a term which may extend to three years" shall be substituted.

3. Insertion of new section 165A in Act XLV of 1860.—After section 165 of the principal Act, the following section shall be inserted, namely:—

"165A. *Punishment for abetment of offences defined in section 161 or section 165.*—Whoever abets any offence punishable under section 161 or section 165, whether or not that offence is committed in consequence of the abetment, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

4. Amendment of section 164, Act V of 1898.—In sub-section (*1*) of section 164 of the Code of Criminal Procedure, 1898, after the words "under this Chapter", the words "or under any other law for the time being in force" shall be inserted.

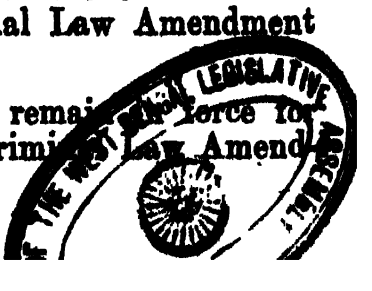
5. Amendment of section 337, Act V of 1898.—(*1*) In section 337 of the Code of Criminal Procedure, 1898,—

(*a*) in sub-section (*1*), after the words "the Indian Penal Code, namely, sections" the figures and letter "161, 165, 165A" shall be inserted;

(*b*) after sub-section (*2A*), the following sub-section shall be inserted, namely:—

"(*2B*) In every case where the offence is punishable under section 161 or section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or sub-section (*2*) of section 5 of the Prevention of Corruption Act, 1947 (II of 1947), and where a person has accepted a tender of pardon and has been examined under sub-section (*2*), then notwithstanding anything contained in sub-section (*2A*), the magistrate shall, without making any further inquiry, send the case for trial to the court of the special judge appointed under the Criminal Law Amendment Act, 1952."

(*2*) The amendments made by sub-section (*1*) shall remain in force for a period of two years from the commencement of the Criminal Law Amendment Act, 1952.



6. Power to appoint special judges.—(*1*) The State Government may, by notification in the Official Gazette, appoint as many special judges as may be necessary for such area or areas as may be specified in the notification to try the following offences, namely:—

(*a*) an offence punishable under section 161, section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or sub-section (*2*) of section 5 of the Prevention of Corruption Act, 1947 (II of 1947);

(*b*) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (*a*).

(*2*) A person shall not be qualified for appointment as a special judge under this Act unless he is, or has been, a sessions judge or an additional sessions judge or an assistant sessions judge under the Code of Criminal Procedure, 1898 (Act V of 1898).

7. Cases triable by special judges.—(*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law the offences specified in sub-section (*1*) of section 6 shall be triable by special judges only.

(*2*) Every offence specified in sub-section (*1*) of section 6 shall be tried by the special judge for the area within which it was committed, or where there are more special judges than one for such area, by such one of them as may be specified in this behalf by the State Government.

(*3*) When trying any case, a special judge may also try any offence other than an offence specified in section 6 with which the accused may, under the Code of Criminal Procedure, 1898, be charged at the same trial.

8. Procedure and powers of special judges.—(*1*) A special judge may take cognizance of offences without the accused being committed to him for trial, and in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1898 (Act V of 1898), for the trial of warrant cases by magistrates.

(*2*) A special judge may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof; and any pardon so tendered shall, for the purposes of sections 339 and 339A of the Code of Criminal Procedure, 1898, be deemed to have been tendered under section 338 of that code.

(*3*) Save as provided in sub-section (*1*) or sub-section (*2*), the provisions of the Code of Criminal Procedure, 1898, shall, so far as they are not inconsistent with this Act, apply to the proceedings before a special judge; and for the purposes of the said provisions, the court of the special judge shall be deemed to be a court of session trying cases without a jury or without the aid of assessors and the person conducting a prosecution before a special judge shall be deemed to be a public prosecutor.

(*4*) A special judge may pass upon any person convicted by him any sentence authorised by law for the punishment of the offence of which such person is convicted.

9. Appeal and revision.—The High Court may exercise, so far as they may be applicable, all the powers conferred by Chapters XXXI and

XXXII of the Code of Criminal Procedure, 1898 (Act V of 1898), on a High Court as if the court of the special judge where a court of session trying cases without a jury within the local limits of the jurisdiction of the High Court.

10. Transfer of certain pending cases.—All cases triable by a Special Judge under section 7 which, immediately before the commencement of this Act, were pending before any magistrate shall, on such commencement, be forwarded for trial to the Special Judge having jurisdiction over such cases.

ACT NO. XLVII OF 1952.

THE MAINTENANCE ORDERS ENFORCEMENT (AMENDMENT) ACT, 1952.

An Act further to amend the Maintenance Orders Enforcement Act, 1921.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Maintenance Orders Enforcement (Amendment) Act, 1952.

2. Amendment of long title and preamble, Act XVIII of 1921.—In the long title of, and the preamble to, the Maintenance Orders Enforcement Act, 1921 (hereinafter referred to as the principal Act), for the words "His Majesty's Dominions and Protectorates," the words "reciprocating territories," shall be substituted.

3. Amendment of section 2, Act XVIII of 1921.—In section 2 of the principal Act,—

(*a*) in the definition of 'dependants' for the words 'the part of His Majesty's Dominions' the words 'the reciprocating territory' shall be substituted;

(*b*) for the definition of 'reciprocating territory' the following definition shall be substituted, namely:—

"'reciprocating territory' means any country or territory outside India in respect of which this Act for the time being applies by virtue of a declaration under section 3."

4. Substitution of new section for section 3, Act XVIII of 1921.—For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. *Declaration of reciprocal arrangements.*—If the Central Government is satisfied that legal provision exists in any country or territory outside India for the enforcement within that country or territory of maintenance orders made by courts in India, the Central Government may, by notification in the Official Gazette, declare that this Act applies in respect of that country or territory and thereupon it shall apply accordingly."

K. Y. BHANDARKAR, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on the 6th August, 1952, and is hereby published for general information:—

ACT NO. LI OF 1952.

THE INDIAN COMPANIES (AMENDMENT) ACT, 1952.

An Act further to amend the Indian Companies Act, 1913.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Companies (Amendment) Act, 1952.

2. Amendment of section 91B, Act VII of 1913.—In section 91B of the Indian Companies Act, 1913, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Notwithstanding anything contained in this section, if, in the case of any public company, the Central Government is of opinion that having regard to the desirability of establishing or promoting any trade, industry or business it would not be in the public interest to apply all or any of the prohibitions contained in sub-section (*1*), the Central Government may direct, by notification in the Official Gazette, that this section shall not apply to any such public company or shall apply thereto, subject to such exceptions, modifications or conditions as may be specified in the notification."

K. Y. BHANDARKAR, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 9th August, 1952, and were published in the *Gazette of India, Extraordinary*, Part II, Section 1, of the 11th August, 1952 and are hereby republished for general information:—

Act NO. LII OF 1952.

THE ESSENTIAL GOODS (DECLARATION AND REGULATION OF TAX ON SALE OR PURCHASE) ACT, 1952.

An Act to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952.

2. Declaration of certain goods to be essential for the life of the community.—The goods specified in the Schedule are hereby declared to be essential for the life of the community.

3. Regulation of tax on sale or purchase of essential goods.—No law made after the commencement of this Act by the legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods declared by this Act to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

THE SCHEDULE.

[*See* section 2.]

Goods declared essential for the life of the community.

1. Cereals and pulses in all forms, including bread and flour, including atta, maida, suji and bran (except when any such article is sold in sealed containers).

2. Fresh and dried fruits, sugar-cane, coconuts, vegetables, edible tubers, vegetable and flower seeds, bulbs and plants, excluding orchids [except (i) any medicine prepared from any one or more of such articles; and (ii) when any such article is sold in sealed containers].

3. Fresh milk, whole or separate, and milk products, including butter, ghee, chana, khoa, but excluding sweetmeats.

4. Meat, fish and eggs (except when any such article is sold in sealed containers).

5. Edible oils, and oilseeds from which edible oils are extracted.

6. Gur.

7. Salt.

8. All cloth, woven on hand-looms, coarse and medium cotton cloth made in mills or woven on power-looms.

Explanation 1.—"Coarse cloth" means any cloth in which the count of warp yarn employed (excluding the border) is below 17s. (whether single or folded).

Explanation 2.—"Medium cloth" means any cloth in which the count of warp yarn employed (excluding the border) is 17s. or finer but is less than 35s. (whether single or folded).

9. Raw cotton, including ginned and unginned cotton or kapas, cotton thread, cotton yarn, cotton seeds, jute seeds, raw jute, sun-hemp, and mesta.

10. Hides and skins.

11. Fertilisers and manures, agricultural machinery and implements, including parts of such machinery and implements.

12. Cattle feeds.

13. Coal including coke and other derivatives, petroleum and petroleum products, including kerosene and motor spirit.

14. Iron and steel.

15. Books, exercise books, slates and slate pencils and periodical journals.

ACT NO. LIII OF 1952.

THE NOTARIES ACT, 1952.

An Act to regulate the profession of notaries.

BE it enacted by Parliament as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Notaries Act, 1952.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "India" means the territories to which this Act extends;

(*b*) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, modified, limited, extended, suspended, extinguished or recorded;

(*c*) "legal practitioner" means any advocate or agent of the Supreme Court or any advocate, vakil or attorney of any High Court or any pleader authorised under any law for the time being in force to practise in any court of law;

(*d*) "notary" means a person appointed as such under this Act:

Provided that for a period of two years from the commencement of this Act it shall include also a person who, before such commencement, was appointed a notary public either under the Negotiable Instruments Act, 1881 (XXVI of 1881), or by the Master of Faculties in England, and is, immediately before such commencement, in practice in any part of India;

(*e*) "prescribed" means prescribed by rule made under this Act;

(*f*) "Register" means a Register of Notaries maintained by the Government under section 4;

(*g*) "State Government", in relation to a Part C State, means the Lieutenant Governor, or, as the case may be, the Chief Commissioner.

3. Power to appoint notaries.—The Central Government, for the whole or any part of India, and any State Government, for the whole or any part of the State, may appoint as notaries any legal practitioners or other persons who possess such qualifications as may be prescribed.

4. Registers.—(*1*) The Central Government and every State Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by that Government and entitled to practise as such under this Act.

(*2*) Every such Register shall include the following particulars about the notary whose name is entered therein, namely:—

(*a*) his full name, date of birth, residential and professional address;

(*b*) the date on which his name is entered in the Register;

(*c*) his qualifications; and

(*d*) any other particulars which may be prescribed.

5. Entry of names in the Register and issue or renewal of certificates of practice.—(*1*) Every notary who intends to practise as such shall, on payment to the Government appointing him of the prescribed fee, if any, be entitled—

(*a*) to have his name entered in the Register maintained by that Government under section 4, and

(*b*) to a certificate authorising him to practise for a period of three years from the date on which the certificate is issued to him.

(*2*) Every such notary who wishes to continue to practise after the expiry of the period for which his certificate of practice has been issued under this section shall, on application made to the Government appointing him and payment of the prescribed fee, if any, be entitled to have his certificate of practice renewed for three years at a time.

6. Annual publication of lists of notaries.—The Central Government and every State Government shall, during the month of January each year, publish in the Official Gazette a list of notaries appointed by the Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

7. Seal of notaries.—Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

8. Functions of notaries.—(*1*) A notary may do all or any of the following acts by virtue of his office, namely:—

(*a*) verify, authenticate, certify or attest the execution of any instrument;

(*b*) present any promissory note, hundi or bill of exchange for acceptance or payment or demand better security;

(*c*) note or protest the dishonour by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881 (XXVI of 1881), or serve notice of such note or protest;

(*d*) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;

(*e*) administer oath to, or take affidavit from, any person;

(*f*) prepare bottomry and respondentia bonds, charter parties and other mercantile documents;

(*g*) prepare, attest or authenticate any instrument intended to take effect in any country or place outside India in such form and language as may conform to the law of the place where such deed is intended to opperate;

(*h*) translate, and verify the translation of, any document from one language into another;

(*i*) any other act which may be prescribed.

(*2*) No act specified in sub-section (*1*) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

9. Bar of practice without certificate.—(*1*) Subject to the provisions of this section, no person shall practise as a notary or do any notarial act

under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5:

Provided that nothing in this sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.

(2) Nothing contained in sub-section (1) shall, until the expiry of two years from the commencement of this Act, apply to any such person as is referred to in the proviso to clause (*d*) of section 2.

10. Removal of names from Register.—The Government appointing any notary may, by order, remove from the Register maintained by it under section 4 the name of the notary if he—

(*a*) makes a request to that effect; or

(*b*) has not paid any prescribed fee required to be paid by him; or

(*c*) is an undischarged insolvent; or

(*d*) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government, renders him unfit to practise as a notary.

11. Construction of references to notaries public in other laws.—Any reference to a notary public in any other law shall be construed as a reference to a notary entitled to practise under this Act.

12. Penalty for falsely representing to be a notary, etc.—Any person who—

(*a*) falsely represents that he is a notary without being appointed as such, or

(*b*) practises as a notary or does any notarial act in contravention of section 9,

shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

13. Cognizance of offence.—(1) No court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Act save upon complaint in writing made by an officer authorised by the Central Government or a State Government by general or special order in this behalf.

(2) No magistrate other than a presidency magistrate or a magistrate of the first class shall try an offence punishable under this Act.

14. Reciprocal arrangements for recognition of notarial acts done by foreign notaries.—If the Central Government is satisfied that by the law or practice of any country or place outside India, the notarial acts done by notaries within India are recognised for all or any limited purposes in that country or place, the Central Government may, by notification in the Official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognised within India for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.

15. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the qualifications of a notary, the form and manner in which applications for appointment as a notary may be made and the disposal of such applications;

(b) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish;

(c) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practice, and exemption, whether wholly or in part, from such fees in specified classes of cases;

(d) the fees payable to a notary for doing any notarial act;

(e) the form of Registers and the particulars to be entered therein;

(f) the form and design of the seal of a notary;

(g) the manner in which inquiries into allegations of professional or other misconduct of notaries may be made;

(h) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions;

(i) any other matter which has to be, or may be, prescribed.

16. Amendment of Act XXVI of 1881.—In the Negotiable Instruments Act, 1881,—

(i) in secetion 3, the definition of "notary public" shall be omitted;

(ii) Chapter XVII shall be omitted.

ACT NO. LIV OF 1952.

THE CENTRAL TEA BOARD (AMENDMENT) ACT, 1952.

An Act further to amend the Central Tea Board Act, 1949.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Central Tea Board (Amendment) Act, 1952.

2. Amendment of section 4, Act XIII of 1949.—In sub-section (3) of section 4 of the Central Tea Board Act, 1949 (hereinafter referred to as the principal Act), to clause (v) the following proviso shall be added, namely:—

"Provided that it shall be lawful for an official so nominated to depute in the prescribed circumstances another official to attend any meeting of the Board on his behalf."

3. Amendment of section 15, Act XIII of 1949.—In sub-section (2) of section 15 of the principal Act, to clause (b) the following words shall be added at the end, namely:—

"and the circumstances in which an official nominated by the Central Government under clause (v) of sub-section (3) of section 4 may depute another official of that Government to attend any meeting of the Board on his behalf;".

ACT NO. LV OF 1952.

THE INDIAN PORTS (AMENDMENT) ACT, 1952.

An Act further to amend the Indian Ports Act, 1908.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Ports (Amendment) Act, 1952.

2. Amendment of section 14, Act XV of 1908.—In section 14 of the Indian Ports Act, 1908 (hereinafter referred to as the principal Act),—

(*a*) in sub-section (*2*) for the words "six months" the words "two months" shall be substituted; and

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Where the sale proceeds of the property are not sufficient to meet the expenses and further sum aforesaid, the owner of the vessel at the time the vessel was wrecked, stranded or sunk shall be liable to pay the deficiency to the conservator on demand, and if the deficiency be not paid within one month of such demand the conservator may recover the deficiency from such owner in the manner laid down in sub-section (*2*) of section 57 for recovery of expenses and damages or in any other manner according as the deficiency does not or does exceed one thousand rupees."

3. Amendment of section 31, Act XV of 1908.—In sub-section (*1*) of section 31 of the principal Act, for the words "and no vessel of any measurement less than two hundred tons and exceeding one hundred tons" the words "and no mechanically propelled vessel of any measurement less than two hundred tons and no other vessel of any measurement less than two hundred tons and exceeding one hundred tons" shall be substituted.

ACT NO. LVI OF 1952.

THE CENTRAL SILK BOARD (AMENDMENT) ACT, 1952.

An Act further to amend the Central Silk Board Act, 1948.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Central Silk Board (Amendment) Act, 1952.

2. Amendment of section 4, Act LXI of 1948.—In section 4, of the Central Silk Board Act, 1948 (hereinafter referred to as the principal Act), for clause (*c*) of sub-section (*3*), the following clause shall be substituted, namely:—

"(*c*) three persons elected by the members of the House of the People from among themselves and one person elected by the members of the Council of States from among themselves;".

3. Amendment of section 6, Act LXI of 1948.—In section 6 of the principal Act, in sub-section (*1*), for the words "The Board shall elect from among its members" the words "The Central Government shall appoint from among the members of the Board" shall be substituted.

4. Amendment of section 13, Act LXI of 1948.—In section 13 of the principal Act, in clause (*b*) of sub-section (*2*), the words "the election of the Vice-Chairman of the Board; and" shall be omitted.

K. Y. BHANDARKAR, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on the 11th August 1952, and was published in the *Gazette of India, Extraordinary*, Part II, Section 1, of the 12th August 1952 and is hereby republished for general information:—

ACT NO. LVII OF 1952.

NATIONAL CADET CORPS (AMENDMENT) ACT 1952.

An Act further to amend the National Cadet Corps Act, 1948.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the National Cadet Corps (Amendment) Act, 1952.

2. Amendment of section 12, Act XXXI of 1948.—In sub-section (*1*) of section 12 of the National Cadet Corps Act, 1948, for clause (*i*), the following clause shall be substituted, namely:—

"(*i*) two members to be elected by the House of the People and one member to be elected by the Council of States annually."

K. Y. BHANDARKAR, Secy.

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PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on 2nd August, 1952, and are hereby published for general information:—

ACT NO. XLVIII OF 1952.

THE REPEALING AND AMENDING ACT, 1952.

An Act to repeal certain enactments and to amend certain other enactments.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Repealing and Amending Act, 1952.

2. Repeal of certain enactments.—The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

3. Amendment of certain enactments.—The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

4. Savings.—The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

REPEALS

(*See* section 2)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
		Regulations.	
1818	III ..	The Bengal State Prisoners Regulation, 1818	The whole.
1819	II ..	The Madras State Prisoners Regulation, 1819	The whole.
1827	XXV ..	The Bombay State Prisoners Regulation, 1827	The whole.
		Acts of the Governor-General of India in Council.	
1839	XX ..	The Bombay Haqqa Prohibition Act, 1839 ..	The whole.
1839	XXIV ..	The Ganjam and Vizagapatam Act, 1839 ..	The whole.
1839	XXIX ..	The Dower Act, 1839	The whole.
1841	XXIV ..	The Illusory Appointments and Infants' Property Act, 1841.	The whole.
1843	V	The Indian Slavery Act, 1843	The whole.
1846	I	The Legal Practitioners Act, 1846 ..	The whole.
1850	XXXIV	The State Prisoners Act, 1850	The whole.
1853	XX	The Legal Practitioners Act, 1853 ..	The whole.
1854	XXXI	The Conveyance of Land Act, 1854 ..	The whole.
1855	XI	The Mesne Profits and Improvements Act, 1855.	The whole.
1855	XXIII	The Mortgaged Estates Administration Act, 1855.	The whole.
1858	III	The State Prisoners Act, 1858	The whole.
1866	XXVII	The Indian Trustees Act, 1866	The whole.
1866	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.	The whole.
1867	XXIII	The Punjab Murderous Outrages Act, 1867 ..	The whole.
1870	VIII	The Female Infanticide Prevention Act, 1870	The whole.
1881	I	The Taj Mahal's Pension Act, 1881 ..	The whole.
1884	II	The Madras Partition-deeds (Validation) Act, 1884.	The whole.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
		Acts of the Governor-General of India in Council—concld.	
1898	VI	The Indian Post Office Act, 1898	Section 77.
1898	X	The Indian Insolvency Rules Act, 1898 ..	The whole.
1908	V	The Code of Civil Procedure, 1908	Sections 154 and 155 and the Fourth Schedule.
1911	I	The Opium (Amendment) Act, 1911 ..	The whole.
1917	XXVI	The Transfer of Property (Validating) Act, 1917	The whole.
		Acts of the Indian Legislature.	
1924	XIII	The Indian (Specified Instruments) Stamp Act, 1924.	The whole.
1925	XXII	The Salt Law Amendment Act, 1925 ..	The whole.
1929	X	The Indian Census Act, 1929	The whole.
1932	VIII	The Bengal Criminal Law Amendment (Supplementary) Act, 1932.	The whole.
1933	IX	The Provincial Criminal Law Supplementing Act, 1933.	The whole.
1940	XVIII	The National Service (European British Subjects) Act, 1940.	The whole.
1941	II	The Indian Merchandise Marks (Amendment) Act, 1941.	The whole.
1941	XXI	The Federal Court Act, 1941	The whole.
1942	XIII	The Agricultural Produce (Grading and Marking) (Amendment) Act, 1942.	The whole.
1942	XIV	The Indian Tolls (Army) (Amendment) Act, 1942	The whole.
1942	XXVI	The Federal Court (Supplemental Powers) Act, 1942.	The whole.
		Acts of the Dominion Legislature.	
1949	III	The Indian Emigration (Amendment) Act, 1949	The whole.
1949	V	The Protective Duties (Amendment) Act, 1949	The whole.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
		Acts of the Dominion Legislature—contd.	
1949	VI	The Public Debt (Central Government) Amendment Act, 1949.	The whole.
1949	IX	The Code of Criminal Procedure (Amendment) Act, 1949.	The whole.
1949	XI	The Railways (Transport of Goods) Amendment Act, 1949.	The whole.
1949	XII	The Protective Duties (Miscellaneous Provisions) Act, 1949.	The whole.
1949	XV	The Code of Criminal Procedure (Second Amendment) Act, 1949.	The whole.
1949	XVI	The Governor-General's Salary (Exemption from Taxation) Act, 1949.	The whole.
1949	XVII	The Criminal Law (Removal of Racial Discriminations) Act, 1949.	The whole.
1949	XIX	The Essential Supplies (Temporary Powers) Amendment Act, 1949.	The whole.
1949	XXVI	The Indian Tea Control (Amendment) Act, 1949	The whole.
1949	XXVII	The Bombay Port Trust (Amendment) Act, 1949	The whole.
1949	XXVIII	The Coal Mines Labour Welfare Fund (Amendment) Act, 1949.	The whole.
1949	XXIX	The Dock Workers (Regulation of Employment) Amendment Act, 1949.	The whole.
1949	XXX	The Public Companies (Limitation of Dividends) Act, 1949.	The whole.
1949	XXXI	The Indian Wireless Telegraphy (Amendment) Act, 1949.	The whole.
1949	XXXII	The Code of Civil Procedure (Amendment) Act, 1949.	The whole.
1949	XXXIII	The Rubber (Production and Marketing) Amendment Act, 1949.	The whole.
1949	XXXIV	The Coffee Market Expansion (Amendment) Act, 1949.	The whole.
1949	XXXV	The Indian Succession (Amendment) Act, 1949	The whole.
1949	XXXVI	The Indian Passport (Amendment) Act, 1949 ..	The whole.
1949	XXXVII	The Registration of Foreigners (Amendment) Act, 1949.	The whole.
1949	XXXVIII	The Chartered Accountants Act, 1949 ..	Section 33.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
		Acts of the Dominion Legislature—concld.	
1949	XXXIX	The Cinematograph (Amendment) Act, 1949 ..	The whole.
1949	XL	The Repealing and Amending Act, 1949 ..	The whole.
1949	XLI	The Child Marriage Restraint (Amendment) Act, 1949.	The whole.
1949	XLII	The Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949.	The whole.
1949	XLIII	The Indian Tariff (Second Amendment) Act, 1949.	The whole.
1949	XLIV	The Reserve Bank of India (Amendment) Act, 1949.	The whole.
1949	XLV	The Industrial Finance Corporation (Amendment) Act, 1949.	The whole.
1949	XLVII	The Indian Arms (Amendment) Act, 1949 ..	The whole.
1949	XLIX	The Essential Supplies (Temporary Powers) Second Amendment Act, 1949.	The whole.
1949	L	The Rubber (Production and Marketing) Amendment Act, 1949.	The whole.
1949	LII	The Merchant Shipping and Lighthouse (Amendment) Act, 1949.	The whole.
1949	LIV	The Industrial Disputes (Banking and Insurance Companies) Act, 1949.	Section 3.
1949	LVI	The Indian Railways (Amendment) Act, 1949 ..	The whole.
1949	LVII	The Electricity (Supply) Amendment Act, 1949	The whole.
1949	LVIII	The Inland Steam-vessels (Amendment) Act, 1949	The whole.
1949	LXIII	The Imports and Exports (Control) Amendment Act, 1949.	The whole.
		Ordinance made by the Governor-General.	
1945	XLVII	The International Monetary Fund and Bank Ordinance, 1945.	Section 6.

THE SECOND SCHEDULE

AMENDMENTS

(*See* section 3)

Year.	No.	Short title.	Amendments.
1	2	3	4
		Acts of the Governor-General of India in Council.	
1860	XLV	The Indian Penal Code ..	In section 42, the words "the territories comprised in" shall be omitted.
1872	III	The Special Marriage Act, 1872	In clause (*2*) of section 2 and in item 3 of the "Declaration to be made by the Bride" in the Second Schedule, for the word "fourteen" the word "fifteen" shall be substituted.
1872	XV	The Indian Christian Marriage Act, 1872.	In section 60, in condition No. (1), for the words "shall exceed sixteen years" and "shall exceed thirteen years" the words "shall not be under eighteen years" and "shall not be under fifteen years" shall respectively be substituted. In section 81,— (*i*) the words and figures "and the officers appointed under section 56" shall be omitted, and (*ii*) for the words "them, respectively," wherever they occur the word "him" shall be substituted.
1882	IV	The Transfer of Property Act, 1882.	In section 69, the words and figures "Notwithstanding anything contained in the Trustees' and Mortgagees' Powers Act, 1866" shall be omitted.
1890	IX	The Indian Railways Act, 1890	In sub-section (*1*) of section 47, for the words beginning with "Every railway company" and ending with "for the following purposes, namely" the following words shall be substituted, namely:— "Every railway company and in the the case of a railway administered by the Government, an officer to be appointed by the Central Government in this behalf shall make general rules consistent with this Act for the following purposes, namely".
1898	IX	The Live-stock Importation Act, 1898.	In sub-section (*1*) of section 3, for the words and letters "the territories for the time being comprised within Part A States and Part C States" the words "the territories to which this Act extends" shall be substituted.

Year.	No.	Short title.	Amendments.
1	2	3	4
		Acts of the Governor-General of India in Council—concld.	
1911	II	The Indian Patents and Designs Act, 1911.	(*i*) In clause (7) of section 2, the words "with reference to any area" shall be omitted. (*ii*) In sub-section (2) of section 23F, the words "and accompanied by the prescribed fee" shall be omitted.
1913	III	The Administrator General's Act, 1913.	(*i*) In sections 15 and 16, after the figures "1893" the word "or" shall be inserted. (*ii*) For section 17 the following section shall be substituted, namely :— "17. *Power to grant Administrator General letters limited to purpose of dealing with assets in accordance with the Regimental Debts Act, 1893, or the Army and Air Force (Disposal of Private Property) Act, 1950.*—If the Administrator General applies in accordance with the provisions of the Regimental Debts Act, 1893, or the Army and Air Force (Disposal of Private Property) Act, 1950, for letters of administration of the estate of any person subject to the Army Act or the Air Force Act or the Army Act, 1950 (XLVI of 1950), or the Air Force Act, 1950 (XLV of 1950), the court may grant to him letters of administration limited to the purpose of dealing with such estate in accordance with the provisions of the Regimental Debts Act, 1893, or as the case may be, the Army and Air Force (Disposal of Private Property) Act, 1950 (XL of 1950)."
1922	VIII	The Delhi University Act, 1922.	In sub-section (*4*) of section 29, for the word "Statutes" the word "Statute" shall be substituted.
1922	XIII	The Ranchi Mental Hospital Act, 1922.	In sub-section (*1*) of section 4, for clauses (*e*) and (*f*) the following clauses shall be substituted, namely :— "(*c*) one Trustee elected by the association registered under the Indian Companies Act, 1913 (VII of 1913) by the name of the United Kingdom Citizens' Association ; and (*d*) one Trustee elected by the association registered under the Indian Companies Act, 1913 (VII of 1913) by the name of the All India Anglo-Indian Association ;".

Year.	No.	Short title.	Amendments.
1	2	3	4
		Acts of the Indian Legislature.	
1923	V	The Indian Boilers Act, 1923	In clause (*d*) of sub-section (*2*) of section 27A, for the words "Chief Commissioner of Railways" the words "Chairman, Railway Board" shall be substituted.
1923	XIV	The Indian Cotton Cess Act, 1923.	In item (*i*) of section 4 and in sub-section (*2*) of section 5, for the word "Vice-Chairman" the word "Vice-President" shall be substituted.
1925	XXXXI	The Indian Succession Act, 1925.	(*i*) In section 318, the words "of India" shall be omitted. (*ii*) In section 380, in the first paragraph the word "all" and in the last paragraph the words "of India" shall be omitted. (*iii*) In column 2 of the first table, under the heading "Debts" in Schedule VIII, for the word "Number" the word "Name" shall be substituted.
1939	IV	The Motor Vehicles Act, 1939	In clause (*g*) of sub-section (*1*) of section 108, for the words "Superintendent of Insurance", in both the places where they occur, the words "Controller of Insurance" shall be substituted.
1940	V	The Trade Marks Act, 1940	In sub-section (*2*) of section 84, clause (*ll*) shall be omited.
1944	I	The Central Excises and Salt Act, 1944.	In column 3 of item 5 of the First Schedule, the words, figures and brackets "For the year ending the 31st day of March, 1944, the rate fixed by section 2 of the Indian Finance Act, 1943, read with section 5 of the Indian Finance (Supplementary and Extending) Act, 1931 and thereaftor" shall be omitted.
		Acts of Parliament.	
1950	XXIX	The Transfer of Prisoners Act, 1950.	In clause (*b*) of section 2, for the words "Chief Commissioner" the words "Lieutenant Governor or, as the case may be, the Chief Commissioner" shall be substituted.
1950	XXX	The Part C States (Laws) Act, 1950.	In section 2, the following words shall be omitted, namely :— "and, provision may be made in any enactment so extended for the repeal or amendment of any corresponding law (other than a Central Act) which is for the time being applicable to that Part C State."

Year.	No.	Short title.	Amendments.
1	2	3	4
		Acts of Parliament—contd.	
1950	XXXI	The Administration of Evacuee Property Act, 1950.	In clause (*q*) of sub-section (*2*) of section 56, for the word and figures "section 38" the word and figures "section 40" shall be substituted.
1950	LXXII	The Essential Supplies (Temporary Powers) Amendment Act, 1950.	In section 1, after the words and brackets "(Temporary Powers)" the word "Second" shall be inserted.
1951	III	The Part B States (Laws) Act, 1951.	(*i*) In section 6, for the words "the Act" the words "this Act" shall be substituted. (*ii*) Under the heading "The Indian Christian Marriage Act, 1872" for the direction "For the definition of 'India' substitute", the direction "After the definition of 'church', insert the following definition" shall be substituted. (*iii*) The entry relating to the Displaced Persons (Legal Proceedings) Act, 1949 (XXV of 1949) shall be omitted.
1951	XXXV	The Port Trusts and Ports (Amendment) Act, 1951.	In section 83, after the figures "117" the figures "119" shall be inserted.
1951	LVI	The Press (Objectionable Matter) Act, 1951.	In the Second Schedule— (*i*) In item 12, for the words "The Travancore-Cochin Safety Measures Act" the words "The Travancore-Cochin Public Safety Measures Act" shall be substituted. (*ii*) After item 13, the following item shall be inserted, namely :— "14. The Hyderabad Public Security Measures Act, 1951 (XXIX of 1951)".
1951	LXIII	The State Financial Corporations Act, 1951.	In the second proviso to section 43, for the word "its" the word "his" shall be substituted.
1952	IX	The Indian Independence Pakistan Courts (Pending Proceedings) Act, 1952.	In item (*iii*) of section 2, after the word, figure and brackets "paragraph (*6*)" the words and figures "of article 13" shall be inserted.
		Ordinance made by the Governor-General.	
1945	XLVII	The International Monetary Fund and Bank Ordinance, 1945.	In section 3, the word "British" shall be omitted.
		Act of the Governor of Bombay in Council.	
1879	VI	The Bombay Port Trust Act, 1879.	In section 43, for the words "Great Indian Peninsula and the Bombay, Baroda and Central India Railway Companies" the words "Central Railway and the Western Railway" shall be substituted.

ACT NO. XLIX OF 1952.

THE INDIAN TEA CONTROL (AMENDMENT) ACT, 1952

An Act further to amend the Indian Tea Control Act, 1938.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Indian Tea Control (Amendment) Act, 1952.

2. **Amendment of section 3, Act VIII of 1938.**—In section 3 of the Indian Tea Control Act, 1938 (hereinafter referred to as the principal Act), for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Members nominated or elected under sub-section (*1*) shall hold office for such period as may be prescribed."

3. **Amendment of section 10, Act VIII of 1938.**—In section 10 of the principal Act, in clause (*h*), after the word 'regulating' the words 'the term of office of nominated or elected members of the Committee and' shall be inserted.

4. **Substitution of new section for section 26, Act VIII of 1938.**—For section 26 of the principal Act, the following section shall be substituted, namely:—

"26. *Method of control of extension of tea cultivation.*—(*1*) So long as this Act remains in force, no one shall plant tea in any land which was not planted with tea on the 31st day of March, 1950, unless permission has been granted to him in writing by or on behalf of the Committee, and such permission was in force on the date aforesaid or was granted after that date.

(*2*) The provisions of sub-section (*1*) shall also apply to the replacing of tea areas by planting tea on area not planted with tea to the same extent but not exceeding two per cent. in each year of the total permissible acreage of the tea estate as on the 31st day of March, 1950, subject to such replacements being accompanied by simultaneous uprooting of the tea bushes in the area so replaced.

(*3*) Nothing in this section shall prohibit or be deemed to prohibit the infilling or supplying of vacancies on land planted with tea on the 31st day of March, 1950, or the replanting of tea upon—

(*i*) land planted with tea on the 31st day of March, 1950, from which the original bushes have been uprooted, or

(*ii*) land planted with tea on the 31st day of March, 1948, from which the original bushes have been uprooted."

ACT NO. L OF 1952.

THE RUBBER (PRODUCTION AND MARKETING) AMENDMENT ACT, 1952.

An Act further to amend the Rubber (Production and Marketing) Act, 1947.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Rubber (Production and Marketing) Amendment Act, 1952.

2. **Amendment of section 4, Act XXIV of 1947.**—For clause (*c*) of sub-section (*3*) of section 4 of the Rubber (Production and Marketing) Act, 1947, the following clause shall be substituted, namely:—

"(*c*) two members to be nominated by the Government of Madras, one of whom shall be an official and the other a non-official;".

K. Y. BHANDARKAR, Secy.

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THURSDAY, SEPTEMBER 11, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 12th August, 1952, and were published in the *Gazette of India, Extraordinary*, Part II, Section I, dated the 16th August 1952 and are hereby republished for general information:—

ACT No. LVIII OF 1952.

THE SALARIES AND ALLOWANCES OF MINISTERS ACT, 1952.

An Act to provide for the salaries and allowances of Ministers.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Salaries and Allowances of Ministers Act, 1952.

2. Definition.—In this Act, "Minister" means a member of the Council of Ministers, by whatever name called, and includes a Deputy Minister.

3. Salaries of Ministers.—There shall be paid to each Minister, other than a Deputy Minister, a salary of two thousand two hundred and fifty rupees *per mensem*, and to each Deputy Minister a salary of one thousand seven hundred and fifty rupees *per mensem*.

4. Residence of Ministers.—Each Minister shall be entitled without payment of rent to the use of a furnished residence throughout his term of office and for a period of fifteen days immediately thereafter, and no charge shall fall on the Minister personally in respect of the maintenance of such residence.

Explanation.—For the purposes of this section, "residence" includes the staff quarters and other buildings appurtenant thereto, and the garden thereof, and "maintenance" in relation to a residence includes the payment of local rates and taxes and the provision of electricity and water.

5. Sumptuary allowance to Ministers.—The Central Government may, by rules made in this behalf, provide for the grant of a sumptuary allowance not exceeding five hundred rupees *per mensem* to any Minister other than a Deputy Minister, and such rules may provide for the grant of the allowance to different Ministers at different rates.

6. Travelling and daily allowances to Ministers.—(*1*) Subject to any rules made in this behalf by the Central Government, a Minister shall be entitled to—

(*a*) travelling allowances for himself and the members of his family and for the transport of his and his family's effects—

(*i*) in respect of the journey to Delhi from his usual place of residence outside Delhi for assuming office, and

(*ii*) in respect of the journey from Delhi to his usual place of residence outside Delhi on relinquishing office; and

(*b*) travelling and daily allowances in respect of tours undertaken by him in the discharge of his official duties, whether by sea, land or air.

(*2*) Any travelling allowance under this section may be paid in cash or free official transport provided in lieu thereof.

7. Medical treatment, etc., to Ministers.—Subject to any rules made in this behalf by the Central Government, a Minister and the members of his family shall be entitled free of charge to accommodation in hospitals maintained by the Government and also to medical treatment.

8. Advances to Ministers for purchase of motor-cars.—There may be paid to any Minister by way of a repayable advance such sum of money as may be determined by rules made in this behalf for the purchase of a motor-car in order that he may be able to discharge conveniently and efficiently the duties of his office.

9. Ministers not to draw salary or allowances as Members of Parliament.—No person in receipt of a salary or allowance under this Act shall be entitled to receive any sum out of funds provided by Parliament by way of salary or allowance in respect of his membership of either House of Parliament.

10. Notification respecting appointment, etc., of Ministers to be conclusive evidence thereof.—The date on which any person became or ceased to be a Minister shall be published in the Official Gazette, and any such notification shall be conclusive evidence of the fact that he became, or ceased to be, a Minister on that date for all the purposes of this Act.

11. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) All rules made under this Act shall be laid before both Houses of Parliament as soon as may be after they are made.

12. Regularisation of certain payments.—All salaries paid or payable for the period commencing on the 14th day of May, 1952, and ending with the commencement of this Act to Ministers described as Ministers of Cabinet rank (but not Members of the Cabinet), all charges incurred before the commencement of this Act in respect of the accommodation provided in any hospital maintained by the Central Government for or on the medical treatment of any Minister or any member of his family and all payments made before such commencement by way of travelling or daily allowances to any Deputy Minister, shall be deemed to have been properly paid, payable or incurred or made.

13. Repeal of Act LIII of 1947.—The Salaries of Ministers Act, 1947, is hereby repealed.

ACT No. LIX OF 1952.

THE PREVENTION OF CORRUPTION (SECOND AMENDMENT) ACT, 1952.

An Act further to amend the Prevention of Corruption Act, 1947.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Prevention of Corruption (Second Amendment) Act, 1952.

2. Amendment of section 3, Act II of 1947.—In section 3 of the Prevention of Corruption Act, 1947 (hereinafter referred to as the principal Act),—

(*a*) after the word and figures "section 165" the words, figures and letter "or section 165A" shall be inserted; and

(*b*) the proviso shall be omitted.

3. Amendment of section 4, Act II of 1947.—The proviso to section 4 of the principal Act shall be omitted and the said section shall be renumbered as sub-section (*1*) thereof and after sub-section (*1*) as so renumbered, the following sub-sections shall be inserted, namely:—

"(*2*) Where in any trial of an offence punishable under section 165A of the Indian Penal Code (Act XLV of 1860), it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed unless the contrary is proved that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 161 of the Indian Penal Code or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the court may decline to draw the presumption referred to in either of the said sub-section, if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn."

4. Amendment of section 5, Act II of 1947.—For sub-section (*4*) of section 5 of the principal Act, the following sub-section shall be substituted, namely:—

"(*4*) The provisions of this section shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this section, be instituted against him."

5. Insertion of new section 5A in Act II of 1947.—After section 5 of the principal Act, the following section shall be inserted, namely:—

"5A. *Investigation into cases under this Act.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no police officer below the rank—

(*a*) in the presidency towns of Madras and Calcutta, of an assistant commissioner of police,

(*b*) in the Presidency town of Bombay, of superintendent of police, and

(*c*) elsewhere, of a deputy superintendent of police,

shall investigate any offence punishable under section 161 section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or under sub-section (*2*) of section 5 of this Act, without the order of a presidency magistrate or a magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that a police officer of the Delhi Special Police Establishment not below the rank of an inspector of police, who is specially authorised by the Inspector-General of Police of that Establishment may, if he has reasons to believe that, on account of the delay involved in obtaining the order of a magistrate of the first class, any valuable evidence relating to such offence is likely to be destroyed or concealed, investigate the offence without such order; but in every case where he makes such investigation, the police officer shall, as soon as may be, send a report of the same to a magistrate of the first class, together with the circumstances in which the investigation was made."

6. Amendment of section 6, Act II of 1947.—Section 6 of the principal Act shall be renumbered as sub-section (*1*) thereof and after, sub-section (*1*) as so renumbered the following sub-section shall be inserted, namely:—

"(*2*) Where for any reason whatsoever any doubt arises whether the previous sanction as required under sub-section (*1*) should be given by the Central or State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed."

7. Amendment of section 7, Act II of 1947.—In section 7 of the principal Act, after the word and figures "section 165" the words, figures and letter "or section 165A" shall be inserted.

K. Y. BHANDARKAR, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

The following Act of the Parliament of India received the assent of the President on the 14th August, 1952, and was published in the *Gazette of India, Extraordinary*, Part II, section 1, dated the 16th August, 1952, and *is hereby republished for general information:*—

ACT No. LX OF 1952.

THE COMMISSIONS OF INQUIRY ACT, 1952.

An Act to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means—

(*i*) the Central Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List I or List II or List III in the Seventh Schedule to the Constitution; and

(*ii*) the State Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List II or List III in the Seventh Schedule to the Constitution;

(*b*) "Commission" means a Commission of Inquiry appointed under section 3;

(*c*) "prescribed" means prescribed by rules made under this Act.

3. Appointment of Commission.—(*1*) The appropriate Government may, if it is of opinion that it is necessary so to do, and shall, if a resolution in this behalf is passed by the House of the People or, as the case may be, the Legislative Assembly of the State, by notification in the Official Gazette, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly:

Provided that where any such Commission has been appointed to inquire into any matter—

(*a*) by the Central Government, no State Government shall, except with the approval of the Central Government, appoint another Commission to inquire into the same matter for so long as the Commission appointed by the Central Government is functioning;

(*b*) by a State Government, the Central Government shall not appoint another Commission to inquire into the same matter for so long as the Commission appointed by the State Government is functioning, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States.

(*2*) The Commission may consist of one or more members appointed by the appropriate Government, and where the Commission consists of more than one member, one of them may be appointed as the Chairman thereof.

4. Powers of Commission.—The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (*Act V of 1908*), *in respect of the following matters, namely:*—

(*a*) *summoning and enforcing the attendance of any person and examining him on oath;*

(*b*) requiring the discovery and production of any document;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or copy thereof from any court or office;

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) any other matter which may be prescribed.

5. Additional powers of Commission.—(*1*) Where the appropriate Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (*2*) or sub-section (*3*) or sub-section (*4*) or sub-section (*5*)

should be made applicable to a Commission, the appropriate Government may, by notification in the Official Gazette, direct that all or such of the said provisions as may be specified in the notification shall apply to that Commission and on the issue of such a notification, the said provisions shall apply accordingly.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry.

(3) The Commission or any officer, not below the rank of a gazetted officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom, subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898 (Act V of 1898), in so far as they may be applicable.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (Act XLV of 1860) is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (Act V of 1898), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482 of the Code of Criminal Procedure, 1898.

(5) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

6. Statements made by persons to the Commission.—No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

(a) is made in reply to a question which he is required by the Commission to answer, or

(b) is relevant to the subject matter of the inquiry.

7. Commission to cease to exist when so notified.—The appropriate Government may, if it is of opinion that the continued existence of a Commission is unnecessary, by notification in the Official Gazette, declare that the Commission shall cease to exist from such date as may be specified in this behalf in such notification, and thereupon, the Commission shall cease to exist.

8. Procedure to be followed by the Commission.—The Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members.

9. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the appropriate Government, the Commission or any member thereof, or any person acting under the direction either of the appropriate Government or of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder or in respect of the publication, by or under the authority of the appropriate Government or the Commission, of any report, paper or proceedings.

10. Members, etc., to be public servants.—Every member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

11. Act to apply to other inquiring authorities in certain cases.—Where any authority (by whatever name called), other than a Commission appointed under section 3, has been or is set up under any resolution or order of the appropriate Government for the purpose of making an inquiry into any definite matter of public importance and that Government is of opinion that all or any of the provisions of this Act should be made applicable to that authority, that Government may, subject to the prohibition contained in the proviso to sub-section (*1*) of section 3, by notification in the Official Gazette, direct that the said provisions of this Act shall apply to that authority, and on the issue of such a notification, that authority shall be deemed to be a Commission appointed under section 3 for the purposes of this Act.

12. Power to make rules.—(*1*) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the term of office and the conditions of service of the members of the Commission;

(*b*) the manner in which inquiries may be held under this Act and the procedure to be followed by the Commission in respect of the proceedings before it;

(*c*) the powers of civil court which may be vested in the Commission;

(*d*) any other matter which has to be, or may be, prescribed.

K. Y. BHANDARKAR, Secy.

Registered [redacted] C207

The Calcutta Gazette

THURSDAY, SEPTEMBER 18, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President

GOVERNMENT OF INDIA.

Ministry of Law.

The following Acts of the Parliament of India received the assent of the President on the 22nd August, 1952, and are hereby published for general information :—

ACT NO. LXI OF 1952.

THE PREVENTIVE DETENTION (SECOND AMENDMENT) ACT, 1952.

An Act further to amend the Preventive Detention Act, 1950.

BE it enacted by Parliament as follows :—

1. **Short title and commencement.**—(*1*) This Act may be called the Preventive Detention (Second Amendment) Act, 1952.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of section 1, Act IV of 1950.**—In sub-section (*3*) of section 1 of the Preventive Detention Act, 1950 (hereinafter referred to as the principal Act), for the words and figures "1st day of October, 1952" the words and figures "31st day of December, 1954" shall be substituted.

3. **Amendment of section 2, Act IV of 1950.**—In section 2 of the principal Act, in clause (*a*), for the words "Chief Commissioner" the words "Lieutenant-Governor or, as the case may be, the Chief Commissioner" shall be substituted.

4. **Amendment of section 3, Act IV of 1950.**—In section 3 of the principal Act,—

(*i*) in sub-section (*3*), for the words "have a bearing on the necessity for the order", the following words shall be substituted, namely :—

"have a bearing on the matter, and no such order made after the commencement of the Preventive Detention (Second Amendment) Act, 1952, shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the State Government." ;

(*ii*) after sub-section (*3*), the following sub-section shall be inserted, namely :—

"(*4*) When any order is made or approved by the State Government under this section, the State Government shall, as soon as may be, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the State Government have a bearing on the necessity for the order."

5. Amendment of section 6, Act IV of 1950.—Section 6 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and after that sub-section as so re-numbered, the following sub-section shall be inserted, namely :—

"(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), every offence under clause (*b*) of sub-section (*1*) shall be cognizable."

6. Amendment of section 7, Act IV of 1950.—In sub-section (*1*) of section 7 of the principal Act, for the words "as soon as may be", the words "as soon as may be, but not later than five days from the date of detention" shall be substituted.

7. Amendment of section 8, Act IV of 1950.—In section 8 of the principal Act,—

(*a*) in sub-section (*2*), the proviso shall be omitted ;

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely :—

"(*3*) The appropriate Government shall appoint one of the members of the Advisory Board who is or has been a Judge of a High Court to be its Chairman, and in the case of a Part C State the appointment to the Advisory Board, of any person who is a Judge of the High Court of a Part A State or a Part B State shall be with the previous approval of the State Government concerned :

Provided that nothing in this sub-section shall affect the power of any Advisory Board constituted before the commencement of the Preventive Detention (Second Amendment) Act, 1952, to dispose of any reference under section 9 pending before it at such commencement."

8. Substitution of new section for section 9, Act IV of 1950.—For section 9 of the principal Act, the following section shall be substituted, namely :—

"9. *Reference to Advisory Boards.*—In every case where a detention order has been made under this Act, the appropriate Government shall, within thirty days from the date of detention under the order, place before the Advisory Board constituted by it under section 8 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report by such officer under sub-section (*3*) of section 3."

9. Amendment of section 10, Act IV of 1950.—In section 10 of the principal Act,—

(*a*) for sub-section (*1*), the following shall be substituted, namely :—

"(*1*) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within ten weeks from the date of detention.";

(*b*) in sub-section (*3*), the words "to attend in person or" shall be omitted, and for the words "legal representative" the words "legal practitioner" shall be substituted.

10. Insertion of new section 11A in Act IV of 1950.—After section 11 of the principal Act, the following section shall be inserted, namely :—

"11A. *Maximum period of detention.*—(*1*) The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 11 shall be twelve months from the date of detention.

(*2*) Notwithstanding anything contained in sub-section (*1*), every detention order which has been confirmed under section 11 before the commencement of the Preventive Detention (Second Amendment) Act, 1952, shall, unless a shorter period as specified in the order, continue to remain in force until the 1st day of April, 1953, or until the expiration of twelve months from the date of detention, whichever period of detention expires later.

(*3*) The provisions of sub-section (*2*) shall have effect notwithstanding anything to the contrary contained in section 3 of the Preventive Detention (Amendment) Act, 1952 (XXXIV of 1952), but nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time."

11. Amendment of section 13, Act IV of 1950.—For sub-section (*2*) of section 13 of the principal Act, the following sub-section shall be substituted, namely :—

"(*2*) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen after the date of revocation or expiry on which the Central Government or a State Government or an officer, as the case may be, is satisfied that such an order should be made."

ACT NO. LXII OF 1952.

THE RESERVE AND AUXILIARY AIR FORCES ACT, 1952.

An Act to provide for the constitution and regulation of certain Air Force Reserves and also an Auxiliary Air Force and for matters connected therewith..

BE it enacted by Parliament as follows :—

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(*1*) This Act may be called the Reserve and Auxiliary Air Forces Act, 1952.

(*2*) It extends to the whole of India.

(*3*) This Chapter shall come into force at once, and the remaining provisions shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "Air Force Reserve" means any of the Air Force Reserves raised and maintained under this Act;

(*b*) "competent authority" means an air officer or a committee consisting of two or more air officers appointed under section 3;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) all other words and expressions used herein and defined in the Air Force Act, 1950 (XLV of 1950), and not hereinbefore defined shall have the meanings respectively assigned to them by that Act.

3. **Appointment of competent authority.**—The Central Government may, by notification in the Official Gazette, appoint an air officer or a committee consisting of two or more air officers to perform all or any of the functions of the competent authority under this Act for such area as may be specified in the notification.

CHAPTER II.

REGULAR AIR FORCE RESERVE.

4. **Constitution of Regular Air Force Reserve.**—The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force Reserve to be designated the Regular Air Force Reserve which shall consist solely of persons transferred or appointed to it under section 5.

5. **Recruitment to the Regular Air Force Reserve.**—(*1*) The competent authority may, by general or special order, transfer to the Regular Air Force Reserve—

(*a*) any officer or airman of the Air Force who under the terms and conditions of his service is liable to serve in any Air Force Reserve if and when constituted;

(*b*) any officer or airman of the Air Force whose commission or engagement in the Air Force has been terminated before the commencement of this Act and who under the terms of his commission or engagement was liable to serve in any Air Force Reserve if and when constituted;

(*c*) any officer or airman who has served in the Air Force and has retired therefrom;

and any officer or airman so transferred shall be deemed to be a member of the said Reserve.

(*2*) The competent authority may, in such circumstances and subject to such conditions as may be prescribed, by special order, appoint to the Regular Air Force Reserve any member of the Air Defence Reserve or the Auxiliary Air Force raised and maintained under this Act, and where any such member is so appointed, he shall cease to be a member of the Air Defence Reserve or the Auxiliary Air Force, as the case may be, and shall as from the date of such appointment be deemed to be a member of the Regular Air Force Reserve.

(*3*) The competent authority may, for reasons which in its opinion are sufficient, cancel any order made under sub-section (*1*) or sub-section (*2*) and on the cancellation of such order the person in respect of whom the order had been made shall cease to be a member of the Regular Air Force Reserve.

6. Classes of persons in the Regular Air Force Reserve.—Members of the Regular Air Force Reserve shall be divided into the following classes, namely :—

(*a*) general duties officers,

(*b*) ground duties officers, and

(*c*) airmen,

and every officer shall be entitled on transfer or appointment to the Reserve to hold the same rank as that which he last held in the Air Force or the Air Defence Reserve or the Auxiliary Air Force, as the case may be, before such transfer or appointment.

7. Period of sevice.—(*1*) Every member of the Regular Air Force Reserve shall be liable to serve in the Reserve—

(*a*) if he is transferred to the Reserve under sub-section (*1*) of section 5, for the period of his Reserve liability; and

(*b*) if he is appointed to the Reserve under sub-section (*2*) of section 5, for the remainder of the period for which he was liable to serve in the Air Defence Reserve or the Auxiliary Air Force, as the case may be:

Provided that the competent authority may require any such member to serve in the Reserve for such further period or periods not exceeding in the aggregate five years as it may think fit.

Explanation I.—For the purposes of this sub-section, "period of Reserve liability" in relation to any member of the Regular Air Force Reserve means the period for which under the terms and conditions of his service in the Air Force he was liable to serve in any Air Force Reserve if and when constituted.

Explanation II.—In computing the period of Reserve liability in relation to any member of the Regular Air Force Reserve whose commission or engagement in the Air Force was terminated before the commencement of this Act, the period which has elapsed between such termination and the date of such commencement shall be included.

(*2*) Notwithstanding anything contained in sub-section (*1*), no person shall be liable to serve in the Reserve after attaining the prescribed age.

8. Termination of service in the Reserve.—Every member of the Regular Air Force Reserve shall, on completion of the period of his service therein, cease to be a member of the Reserve.

CHAPTER III.

Air Defence Reserve.

9. Constitution of Air Defence Reserve.—The Central Government may raise and maintain in the manner hereafter in this Chapter provided an Air Force Reserve to be designated the Air Defence Reserve which shall consist of persons deemed under the provisions of section 16 to be enrolled therein.

10. Classes of persons in the Air Defence Reserve.—Members of the Air Defence Reserve shall be divided into the following classes, namely :—

(*a*) general duties officers;

(*b*) ground duties officers; and

(*c*) airmen.

11. Obligation to register.—(*1*) Every citizen of India who—

(*a*) holds or has held a public transport pilot's licence ("B" Licenc issued under the Indian Aircraft Rules, 1937, or

(*b*) has had not less than two hundred hours' experience of solo flyin including not less than thirty landings, or

(*c*) holds or has held a first class navigator's licence issued under th Indian Aircraft Rules, 1937, or

(*d*) has had at least four years' aviation experience during which at lea six hundred hours shall have been spent in the air, not less tha one hundred hours of such experience being experience of navig tion in the air, or

(*e*) holds or has held a first class radio telegraph operator's licence issue under the Indian Aircraft Rules, 1937, or

(*f*) holds or has held a radio telephone operator's licence issued under th Indian Aircraft Rules, 1937, or

(*g*) holds or has held a licence as ground engineer in any of the categori A, B, C, D or X issued under the Indian Aircraft Rules, 1937, c

(*h*) is or was at any time employed in connection with any aerodrome c in connection with the control and movement of aircraft, in suc capacity as may be prescribed,

shall within the prescribed period correctly fill up, or cause to be filled up, i the best of his knowledge and belief the prescribed form, and sign and lodge with the competent authority nearest to his usual place of residence or business

Provided that nothing contained in this sub-section shall apply—

(*i*) to any person belonging to any of the classes specified in clauses (to (*f*), if he has attained the age of thirty-seven years; or

(*ii*) to any person belonging to any of the classes specified in clauses (and (*h*), if he has attained the age of fifty years.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), th competent authority may, if it is satisfied that the provisions of that sub-sectio apply to any person, by order in writing, require that person to furnish with such time such particulars as may be specified in the order and such perso shall within the specified time furnish correctly to the best of his knowled and belief the said particulars to the said authority in such form and mann as may be prescribed.

12. Liability to be called up for inquiry.—Every person to whom th provisions of section 11 are applicable shall be liable to be called up for inqui under section 13—

(*a*) if he belongs to any of the classes specified in clauses (*a*) to (*f*) sub-section (*1*) of section 11 until he has completed his thirt seven year, and

(*b*) if he belongs to any of the classes specified in clauses (*g*) and (*h*) the said sub-section, until he has completed him fiftieth year.

13. Calling-up for inquiry.—The competent authority may cause to b served on any person for the time being liable to be called up for inquiry und section 12 a written notice stating that he is called up for inquiry regarding h fitness for service in the Air Defence Reserve and requiring him to prese himself to such person and at such place and at such time as may be specifi in the notice and to submit himself to inquiry by the said person.

14. **Medical examination.**—Every person called up for inquiry under ction 13 shall, if and when required by the competent authority, present him-lf for examination before such medical officer as may be directed by that ithority and, for the purposes of such examination, shall comply with the rections of the medical officer.

15. **Registration of persons considered fit for enrolment.**—If, after such quiry and medical examination as aforesaid, the competent authority considers person fit for enrolment in the Air Defence Reserve, it shall inform him cordingly and enter his name and other prescribed particulars in a register aintained in such form and manner as may be prescribed.

16. **Calling up for service.**—The competent authority may cause to be rved on any person whose name is entered in the register maintained in pur-iance of section 15 a written notice stating that he is called up for service in e Air Defence Reserve and requiring him to present himself at such place and ne and to such authority as may be specified in the notice; and the person ɔon whom the notice is served shall be deemed to be enrolled in the Reserve from the day so specified.

17. **Period of service.**—(*1*) Every person deemed to be enrolled in the Air efence Reserve shall be liable for service—

(*a*) if he belongs to any of the classes specified in clauses (*a*) to (*f*) of sub-section (*1*) of section 11, until he has completed his forty-second year;

(*b*) if he belongs to any of the classes specified in clauses (*g*) and (*h*) of the said sub-section, until he has completed his fifty-fifth year.

(*2*) Every such person, on attaining the age specified in sub-section (*1*), ıall cease to be a member of the Air Defence Reserve.

CHAPTER IV.

AUXILIARY AIR FORCE.

18. **Constitution of Auxiliary Air Force.**—(*1*) The Central Government ay raise and maintain in the manner hereafter in this Chapter provided an Air ɔrce to be designated the Auxiliary Air Force.

(*2*) The Central Government may constitute such number of squadrons and ıits of the Auxiliary Air Force as it thinks fit and may disband or reconstitute ıy squadron or unit.

19. **Classes of persons in the Auxiliary Air Force.**—Members of the uxiliary Air Force shall be divided into the following classes, namely:—

(*a*) general duties officers;

(*b*) ground duties officers; and

(*c*) airmen.

20. **Officers of the Auxiliary Air Force.**—The President may grant to such ɛrson as he thinks fit a commission as an officer in the Auxiliary Air Force ith designation of rank corresponding to that of any commissioned officer in ıe Air Force.

21. Persons eligible for enrolment.—Any citizen of India may offer himself for enrolment in the Auxiliary Air Force and may, if he satisfies the prescribed conditions, be so enrolled on such terms as may be prescribed.

22. Period of service.—Every officer and every enrolled person shall, subject to any rules that may be made in this behalf under this Act, be required to serve in the Auxiliary Air Force for a period of five years from the date of his appointment or enrolment but may, after the completion of his period of service, volunteer to serve therein for further periods each of not more than five years' duration.

23. Termination of service.—The service of any officer or enrolled person in the Auxiliary Air Force may, at any time before the completion of his period of service, be terminated by such authority and under such conditions as may be prescribed.

24. Advisory Committees.—(*1*) The Central Government shall, as soon as may be after the commencement of this Act, constitute—

(*a*) for the whole of India, a Central Advisory Committee;

(*b*) for each State, a State Advisory Committee; and

(*c*) for every unit of the Auxiliary Air Force, a Unit Advisory Committee

(*2*) It shall be the duty of the Central Advisory Committee to advise the Central Government on matters connected with the Auxiliary Air Force generally, of the State Advisory Committee to advise the Central Government on matters connected with the formation of squadrons or units in the State and squadrons or units already stationed in the State.

(*3*) The duties, powers and procedure of Advisory Committees and in particular the matters in respect of which the Advisory Committees may be called upon to give advice shall be such as may be prescribed.

CHAPTER V.

LIABILITY AND DISCIPLINE OF MEMBERS OF RESERVE AND AUXILIARY AIR FORCES.

25. Liability to be called up for service.—Every member of an Air Force Reserve or the Auxiliary Air Force shall, during the period of his service, be liable to be called up—

(*a*) for training for such period as may be prescribed and for medical examination.

(*b*) for service in aid of the civil power,

(*c*) for Air Force service in India or abroad.

26. Application of Air Force Act, 1950.—Every member of an Air Force Reserve or the Auxiliary Air Force shall, when called up for training, medical examination or for service under this Act, be subject to the Air Force Act, 1950 (XLV of 1950), and the rules made thereunder in the same manner as a person belonging to the Air Force and holding the same rank is subject to the said Act and rules and shall continue to be so subject until duly released from such training, medical examination or service, as the case may be.

CHAPTER VI.

MISCELLANEOUS.

27. Reinstatement in civil employ of persons required to perform service nder this Act.—(*1*) It shall be the duty of every employer by whom a person lled up under section 25 is employed to grant him such leave as may be ecessary and to reinstate him in his employment on the termination of the eriod during which he has been so called up in an occupation and under con- itions not less favourable to him than those which would have been applicable him had he not been so called up:

Provided that if the employer refuses to reinstate such person or denies his ability to reinstate such person, or if for any reason the reinstatement of such erson is represented by the employer to be impracticable, either party may fer the matter to the prescribed authority and that authority shall, after con- dering all matters which may be put before him and after making such fur- ier inquiry into the matter as may be prescribed, pass an order—

(*a*) exempting the employer from the provisions of this section, or

(*b*) requiring him to re-employ such person on such terms as that authority thinks suitable, or

(*c*) requiring him to pay to such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(*2*) If any employer fails to obey the order of any such authority as is ferred to in the proviso to sub-section (*1*), he shall be punishable with fine hich may extend to one thousand rupees, and the court by which an employer convicted under this section shall order him (if he has not already been so quired by the said authority) to pay to the person whom he has failed to e-employ a sum equal to six months' remuneration at the rate at which his last muneration was payable to him by the employer, and any amount so required be paid either by the said authority or by the court shall be recoverable as it were a fine imposed by such court.

(*3*) In any proceeding under this section it shall be a defence for an nployer to prove that the person formerly employed did not apply to the nployer for reinstatement within a period of two months from the termination the period during which he was called up under section 25.

(*4*) The duty imposed by sub-section (*1*) upon an employer to grant leave o a person such as is described in that sub-section or to reinstate him in his mployment shall attach to an employer who, before such person is actually alled up under section 25, terminates his employment in circumstances such as o indicate an intention to evade the duty imposed by that sub-section and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of an order relating to that person under section 25.

28. Preservation of certain rights of persons called up for service.—When ny person called up under section 25 has any rights under any provident fund r superannuation fund or other scheme for the benefit of employees maintained connection with the employment he relinquishes, he shall continue, during e period for which he has been so called up and if he is reinstated, until such einstatement under the provisions of this Act, to have in respect of such fund r scheme such rights as may be prescribed.

29. Pay and allowances.—(*1*) Every member of an Air Force Reserve c the Auxiliary Air Force shall, during the period of training or active servic receive such pay and allowances as are admissible to an officer or airman, a the case may be, in the corresponding rank, branch or trade of the Air Forc

(*2*) Where any such member was in any employment immediately before h is called up for training under section 25, the employer shall, during the perio of the training, be liable to pay to him the difference, if any, between the pa and allowances which he would have received from the employer if he had nc been called up for such training and the pay and allowances which he receive as such member while under training.

(*3*) If any employer refuses or fails to pay to any such member the diffe ence in pay and allowances as provided in sub-section (*2*), such difference i pay and allowances may, on application by the member to the prescribe authority, be recovered from the employer in such manner as may be prescribe

30. Penalties.—(*1*) If any person refuses or without lawful excuse (th burden of proving which shall lie upon such person) neglects to comply full with the requirements of sub-section (*1*) of section 11 or of any order mad under sub-section (*2*) of that section or with the requirements of section 14, h shall be punishable with fine which may extend to five hundred rupees.

(*2*) If any person wilfully fails to comply with any notice issued unde section 13 or section 16, he shall be punishable with imprisonment which ma extend to six months, or with fine which may extend to one thousand rupee or with both.

31. Service of notice.—Any notice or order to be served on any perso for the purposes of this Act may be sent by post to that person at his last know address or may be served upon him in such other manner as may be prescribe

32. Competent authority to be public servant.—For the purposes of th Act every competent authority and where the competent authority consists of committee of two or more air officers, every member of the committee shall h deemed to be a public servant within the meaning of section 21 of the India Penal Code (Act XLV of 1860).

33. Power of Central Government to grant exemptions.—The Centra Government may, for special reasons and subject to such conditions as may b prescribed, by order exempt any person from any obligation or liability unde this Act or any particular provision thereof.

34. Power to make rules.—(*1*) The Central Government may, by notific tion in the Official Gazette, make rules for carrying out the purposes of th Act.

(*2*) In particular, and without prejudice to the generality of the foregoi power, such rules may provide for all or any of the following matters, namely:-

(*a*) the composition and strength of any Air Force Reserve;

(*b*) the circumstances in which and the conditions subject to which a officer or airman may be transferred or appointed to the Regul Air Force Reserve under section 5;

(*c*) the age beyond which persons shall not be liable to serve in t Regular Air Force Reserve;

(*d*) the form and manner in which the particulars required by sub-sectic (*2*) of section 11 shall be furnished;

(*e*) the form and manner in which registers shall be maintained in pu suance of section 15, the particulars to be entered therein, and t correction or revision of such particulars from time to time;

(*f*) the pay or allowances payable to persons called up for inquiry or medical examination under this Act;

(*g*) the terms and conditions subject to which a person may be enrolled as a member of the Auxiliary Air Force;

(*h*) the authority by which and the conditions subject to which the service of any officer or enrolled person in the Auxiliary Air Force may be terminated;

(*i*) the constitution and the duties, powers and procedure of Advisory Committees to be constituted under section 24;

(*j*) the period and manner of training of members of any Air Force Reserve and the Auxiliary Air Force;

(*k*) the manner in which and the conditions subject to which the rank of any member of an Air Force Reserve may be determined;

(*l*) the constitution of the authority for the purpose of section 27 and the manner in which such authority may conduct any inquiry under this Act;

(*m*) the authority to which an application under sub-section (*3*) of section 29 may be made and the manner in which the difference in the pay and allowances may be recovered under that sub-section;

(*n*) the manner in which any notice or order issued or made under this Act may be served;

(*o*) the conditions subject to which any person may be exempted from any obligation or liability under this Act or any particular provision thereof;

(*p*) any other matter which under this Act is to be, or may be, prescribed.

(*3*) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) All rules made under this section shall be laid for not less than seven days before Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

35. Amendment of sections 2, 4 and 31, Act XLV of 1950.—In the Air Force Act, 1950,—

(*i*) in section 2, for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) persons belonging to the Regular Air Force Reserve or the Air Defence Reserve or the Auxiliary Air Force, in the circumstances specified in section 26 of the Reserve and Auxiliary Air Forces Act, 1952";

(*ii*) in section 4, for the words "the Indian Air Force Volunteer Reserve", wherever they occur, the words "any Air Force Reserve or the Auxiliary Air Force" shall be substituted;

(*iii*) in section 31, for the words "the Air Force Reserve" the words "any Air Force Reserve or the Auxiliary Air Force" shall be substituted.

36. Repeal of Act XXXVI of 1939.—The Indian Air Force Volunteer Reserve (Discipline) Act, 1939, is hereby repealed.

ACT NO. LXIII OF 1952.

THE STATE ARMED POLICE FORCES (EXTENSION OF LAWS) ACT, 1952.

An Act to provide for the extension of disciplinary laws in force in any State relating to the armed police force of that State to members of the said force when serving outside that State.

BE it enacted by Parliament as follows :—

1. **Short title and extent.**—(*1*) This Act may be called the State Armed Police Forces (Extension of Laws) Act, 1952.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

2. **Definition.**—In this Act, "armed police force" means any police force constituted by any of the enactments specified in the Schedule for the time being in force.

3. **Extension of disciplinary laws of any State to members of the armed police force of that State when serving outside that State.**—Where any detachment of an armed police force of a State is serving in any part of any other State, whether independently or by being attached to the police force of that other State, then, notwithstanding anything contained in section 3 of the Police Act, *1888 (III of 1888)*, every member of the said detachment, while discharging the functions of a police officer in that other State, shall continue to be subject to the same laws in respect of discipline and liabilities as would have been applicable to him, if he had been discharging those functions within the State to which the said force belongs.

4. **Power to add to, or omit from, the Schedule.**—The Central Government may, by notification in the Official Gazette, add to, or omit from, the Schedule any enactment and on the publication of such a notification, the Schedule shall be deemed to be amended accordingly.

5. **Repeal.**—The United Provinces Provincial Armed Constabulary (Extension of Laws) Act, 1949 (IV of 1949) is hereby repealed.

SCHEDULE.

(*See* sections 2 and 4.)

1. The Bengal Military Police Act, 1892 (V of 1892).

2. The Eastern Frontier Rifles (Bengal Battalion) Act, 1920 (Bengal Act No. II of 1920).

3. The Bombay State Reserve Police Force Act, 1951 (Bombay Act No. XXXVIII of 1951).

4. The Central Provinces and Berar Special Armed Constabulary Act, 1942 (C. P. and Berar Act No. VII of 1942).

5. The Madhya Bharat Special Armed Force Act, Samvat 2007 (Madhya Bharat Act No. 75 of 1950).

6. The Orissa Military Police Act, 1946 (Orissa Act No. VII of 1946).

7. The Rajasthan Armed Constabulary Act, 1950 (Rajasthan Act No. XII of 1950).

8. The United Provinces Provincial Armed Constabulary Act, 1948 (U. P. Act No. XL of 1948).

K. Y. BHANDARKAR, Secy.

The following Acts of the Parliament of India received the assent of the President on the 27th August 1952, and are hereby published for general information:—

ACT NO. LXIV OF 1952.

THE CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) ACT, 1952.

An Act further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1952.

2. **Amendment of section 128, Act V of 1898.**—In section 128 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the principal Act), for the words and figures "the Indian Army, Navy or Air Force or a person subject to the Territorial Army Act, 1948" the words "the armed forces" shall be substituted.

3. **Amendment of section 129, Act V of 1898.**—In section 129 of the principal Act, for the words "military force" the words "the armed forces" shall be substituted.

4. **Amendment of section 130, Act V of 1898.**—In sub-section (*1*) of section 130 of the principal Act, for the words and figures "by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in the Indian Army or of any persons subject to the Territorial Army Act, 1948, to disperse such assembly by military force", the words "by the armed forces, he may require any officer thereof in command of any group of persons belonging to the armed forces to disperse such assembly with the help of the armed forces under his command" shall be substituted.

5. **Amendment of section 131, Act V of 1898.**—In section 131 of the principal Act, for the words "any commissioned officer of the Indian Army may disperse such assembly by military force" the words "any commissioned officer of the armed forces may disperse such assembly with the help of the armed forces under his command" shall be substituted.

6. **Amendment of section 132, Act V of 1898.**—In section 132 of the principal Act,—

(*a*) in clause (*d*), for the words and figures "soldier, or person subject to the Indian Territorial Army Act, 1948" the words "soldier, sailor or airman in the armed forces" shall be substituted;

(*b*) in the proviso, for the words and figures "soldier in the Indian Army or any person subject to the Territorial Army Act, 1948" the words "soldier, sailor or airman in the armed forces" shall be substituted.

7. **Insertion of new section 132A in Act V of 1898.**—In Chapter IX, after section 132 of the principal Act, the following section shall be inserted, namely:—

'*132A. Definitions.*—In this Chapter,—

(*a*) the expression "armed forces" means the military, naval and air forces, operating as land forces and includes any other armed forces of the Union so operating;

(*b*) "Officer," in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer and a non-commissioned officer.'

ACT NO. LXV OF 1952.

THE ESSENTIAL SUPPLIES (TEMPORARY POWERS) AMENDMENT ACT 1952.

An Act further to amend the Essential Supplies (Temporary Powers) Act, 1946

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Essential Supplies (Temporary Powers) Amendment Act, 1952.

2. **Amendment of section 1, Act XXIV of 1946.**—In section 1 of the Essential Supplies (Temporary Powers), Act, 1946 (hereinafter referred to as the principal Act), in sub-section (*3*) for the words and figures "thirty-first day of December, 1952" the words and figures "twenty-sixth day of January, 1955" shall be substituted.

3. **Omission of section 2A, Act XXIV of 1946.**—Section 2A of the principal Act shall be omitted.

K. Y. BHANDARKAR, Secy.

Registered No. C207

The Calcutta Gazette

THURSDAY, OCTOBER 23, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President

GOVERNMENT OF INDIA.

Ministry of Law.

ORDINANCE NO. VI OF 1952.

THE WEST BENGAL EVACUEE PROPERTY (TRIPURA AMENDMENT) ORDINANCE, 1952.

An Ordinance further to amend the West Bengal Evacuee Property Act, 1951 as extended to Tripura.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (*1*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title.—This Ordinance may be called the West Bengal Evacuee Property (Tripura Amendment) Ordinance, 1952.

2. Amendment of section 2, West Bengal Act V of 1951 as extended to Tripura.—In clause (*b*) of section 2 of the West Bengal Evacuee Property Act, 1951 as extended to the State of Tripura by the notification of the Government of India in the Ministry of States, No. 101-R.C., dated the 9th May, 1951 (hereinafter referred to as the principal Act), for the words and figures "the 15th day of June" the words and figure "the 9th day of July" shall be substituted and shall be deemed always to have been substituted.

3. Insertion of new section 5A in West Bengal Act V of 1951 as extended to Tripura.—After section 5 of the principal Act, the following section shall be inserted, namely:—

"5A. *Special provision in respect of bargadars.*—(*1*) Where an evacuee who, as a bargadar, was in actual possession of any agricultural land on or after the 15th day of August, 1947, has returned to Tripura before the appointed day and, before the expiry of one month from the commencement of the West Bengal Evacuee Property (Tripura Amendment) Ordinance, 1952 makes, or has, before such commencement, made an application in writing to the Collector for being restored to the possession of that land as a bargadar, then, notwithstanding anything contained in any other law for the time being in force or any contract to the contrary, the applicant shall be, and shall be deemed to have

been, entitled to be restored to actual possession of that land as a bargadar, at the beginning of the next crop season which would be available after the application, on the same terms and conditions, as far as may be, as were applicable to him as such bargadar when he left Tripura.

(2) On any such application as is referred to in sub-section (1), the Collector shall, after making such summary inquiry as he thinks fit and if satisfied that the applicant should be restored to the possession of any agricultural land as a bargadar, place the applicant or empower any officer subordinate to him to place the applicant in the possession of that land on the same terms and conditions, as far as may be, as were applicable to him when he left Tripura, and for such purpose, the Collector or the officer, as the case may be, may use or cause to be used such force as may be necessary.

Explanation.—For the purposes of this section, a 'bargadar' means a person who, under the system generally known as *adhi barga* or *bhag*, cultivates the land of another person on condition of delivering a share or quantity of the produce of such land to that person."

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM, Secy.

Registered No. C207

The

Calcutta Gazette

THURSDAY, OCTOBER 30, 1952.

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President

GOVERNMENT OF INDIA.

Ministry of Law.

ORDINANCE NO. VII OF 1952.

THE INFLUX FROM PAKISTAN (CONTROL) REPEALING ORDINANCE, 1952.

An Ordinance to provide for the repeal of the influx from Pakistan (Control) Act, 1949.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(*1*) This Ordinance may be called the Influx from Pakistan (Control) Repealing Ordinance, 1952.

(*2*) It shall come into force at once.

2. Repeal of Act XXIII of 1949.—During the period of operation of this Ordinance, the Influx from Pakistan (Control) Act, 1949, shall be deemed to be repealed.

3. Savings.—(*1*) The repeal by this Ordinance of the Influx from Pakistan (Control) Act, 1949, shall not affect the continuance in force, according to its tenor, of any permit which is intended to continue in force beyond the date of commencement of this Ordinance, and any person who commits a breach of any of the conditions of the permit or against whom a reasonable suspicion exists that he has committed such breach, may be

prosecuted, punished or proceeded against under section 5 or section 7 of the Act hereby repealed as if this Ordinance had not been promulgated.

(2) For the removal of doubts it is hereby declared that the provisions contained in sub-section (*1*) shall be without prejudice to the general application of section 6 of the General Clauses Act, 1897 (X of 1897).

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM, Secy

Registered No. C207

The Calcutta Gazette

THURSDAY, NOVEMBER 20, 1952.

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President

GOVERNMENT OF INDIA.

Ministry of Law.

New Delhi, the 29th October 1952.

THE IRON AND STEEL COMPANIES AMALGAMATION ORDINANCE, 1952.

No. VIII OF 1952.

An Ordinance to make special provision, in the interests of the general public and the Union, for the amalgamation of certain companies closely connected with each other in the manufacture and production of iron and steel, and for matters connected therewith or incidental thereto.

WHEREAS for the purpose of securing, in the interests of the general public and the Union, the efficient and economical expansion and working of the iron and steel industry in India, it is essential that the Steel Corporation of Bengal, Limited, and the Indian Iron and Steel Company, Limited, which are engaged in the manufacture and production of iron and steel, should be amalgamated;

AND WHEREAS to give effect to the scheme of the Central Government for the expansion of the iron and steel industry and to make available further resources for such expansion, it is necessary that the said companies should be amalgamated with as little delay as possible;

AND WHEREAS the amalgamation of the said companies is also in pursuance of successive recommendations made by the Tariff Board and the Tariff Commission;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title and commencement.**—(*1*) This Ordinance may be called the Iron and Steel Companies Amalgamation Ordinance, 1952.

(*2*) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless the context otherwise requires,—

(*a*) "appointed day" means the 1st day of January, 1953;

(*b*) "the dissolved company" means the Steel Corporation of Bengal, Limited, formed and registered under the Indian Companies Act, 1913 (VII of 1913);

(*c*) "the Iron and Steel Company" means the Indian Iron and Steel Company, Limited, formed and registered under the Indian Companies Act, 1913 (VII of 1913);

(*d*) "prescribed" means prescribed by rules made under this Ordinance.

3. **Amalgamation of certain companies engaged in the iron and steel industry.**—(*1*) As from the appointed day, the undertaking of the Steel Corporation of Bengal, Limited, shall be transferred to and shall vest in the Iron and Steel Company.

(*2*) The undertaking of the dissolved company shall be deemed to include all rights, powers, authorities and privileges and all property, movable or immovable, including cash balances, reserves, revenue balances, investments and all other interests and rights in or arising out of such property as may belong to, or be in the possession of, the dissolved company immediately before the appointed day, and all books, accounts and documents relating thereto, and shall also be deemed to include all debts, liabilities and obligations of whatever kind then existing of the dissolved company.

4. **Special provision for the transfer of certain items of property.**—For the purposes of this Ordinance, all the profits of the dissolved company for the year 1952 and the revenue reserves of the dissolved company, when transferred to the Iron and Steel Company under the provisions of this Ordinance, shall be deemed to be respectively the profits of the Iron and Steel Company for the said year and revenue reserves of the said company:

Provided that nothing in this section shall entitle a director or a managing agent of the Iron and Steel Company to any commission or other remuneration in respect of any profits so transferred.

5. **Saving of contracts, etc., to which the dissolved company is a party.**—Subject to the other provisions contained in this Ordinance, all contracts, deeds, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party, subsisting or having effect immediately before the appointed day, shall be of as full force and effect against or in favour of the Iron and Steel Company, as the case may be, and may be enforced as fully and effectually as if, instead of the dissolved company, the Iron and Steel Company had been a party thereto.

6. **Saving of legal proceedings to which the dissolved company is a party.**—If, on the appointed day, any suit, appeal or other legal proceeding of whatever nature by or against the dissolved company is pending,

the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Iron and Steel Company of the undertaking of the dissolved company or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Iron and Steel Company, in the same manner and to the same extent as it would or may be continued, prosecuted and enforced by or against the dissolved company if this Ordinance had not been promulgated.

7. **Terms of transfer as respects shareholders in the dissolved company.** —(*1*) As soon as may be after the appointed day, the Iron and Steel Company shall, subject to the rules, if any, made in this behalf, allot to every person registered as a shareholder in the dissolved company immediately before the appointed day,—

(*a*) if he is the holder of preference shares, as many preference shares in the Iron and Steel Company as are equivalent in number and value to the preference shares held by him in the dissolved company immediately before the appointed day, and

(*b*) if he is the holder of ordinary shares, four ordinary shares for rupees ten each in the Iron and Steel Company for every five ordinary shares for rupees ten each held by him in the dissolved company immediately before the appointed day, being the relative values of the two shares as determined by the Tariff Commission established under the Tariff Commission Act, 1951 (I of 1951).

(*2*) Notwithstanding anything contained in any other law for the time being in force, any report made by the Tariff Commission before the commencement of this Ordinance respecting the value of ordinary shares in the Iron and Steel Company in relation to the value of ordinary shares in the dissolved company shall be deemed to have been validly made and shall not be called in question in any court.

(*3*) Every shareholder in the dissolved company to whom a preference share has been allotted under this section shall be entitled—

(*i*) to receive a fixed cumulative preferential dividend at the rate of five *per cent. per annum* as from the 1st day of January, 1953. on the capital for the time being paid up or credited as having been fully paid up thereon without deduction of Indian income-tax paid by the company;

(*ii*) subject to the provisions of clause (*i*), to rank for dividend equally with the holders of preference shares in the Iron and Steel Company immediately before the appointed day, and in priority to all other shareholders in that company;

(*iii*) to be repaid, in the winding up of the Iron and Steel Company, the amounts paid up or credited as having been fully paid up thereon, together with any arrears of dividends (whether earned or not), calculated to the date of repayment of capital, equally with the holders of preference shares in the Iron and Steel Company immediately before the appointed day, and in priority to all other shareholders in that company;

(*iv*) to exercise the same voting rights at general meetings of the Iron and Steel Company as are conferred on the holders of preference shares in that company immediately before the appointed day.

(*4*) The Iron and Steel Company shall cause a notice to be published in the Gazette of India and shall also send by post to every person whose

name was entered immediately before the appointed day in the register of shareholders in the dissolved company, a notice giving particulars of the terms hereinbefore set out as to the allotment of new shares and the disposal in the prescribed manner of fractional shares and an allotment letter for the new shares which shall also contain a statement of the fractional shares (if any) to which a shareholder would be entitled if fractional shares are to be allotted.

(*5*) Every shareholder in the dissolved company whose name appears in the register of the dissolved company immediately before the appointed day shall be entitled, on presentation within the prescribed period of the allotment letter and the share certificate in respect of the shares held by him in the dissolved company, to receive in due course share certificates of the Iron and Steel Company in accordance with the provisions of this Ordinance and the rules made thereunder.

(*6*) Any rights specified in sub-section (5) shall, during the period beginning with the appointed day and ending with the day on which the Iron and Steel Company issues fresh share certificates to the shareholders of the dissolved company, be transferable in like manner as the shares in the Iron and Steel Company themselves are transferable, and the transferees of such rights shall be entitled, upon submission of the letter of allotment the relative share certificate in the dissolved Company and the document of transfer, to share certificates in the same manner and to the same extent as the transferors would have been entitled.

8. **Priority as between secured creditors of the dissolved company and secured creditors of the Iron and Steel Company.**—Creditors of the dissolved company whose debts are secured by a mortgage, charge or lien on the property of the dissolved company or any part thereof shall, with reference to similar secured creditors of the Iron and Steel Company, have such priority in the repayment of the debts as may be determined by agreement between the Iron and Steel Company and the secured creditors of the dissolved company:

Provided that in the absence of any such agreement the matter shall be referred by the Iron and Steel Company to the determination of such person as may be appointed by the Central Government in this behalf, and the decision of such person shall be final and binding on the Iron and Steel Company and the secured creditors concerned.

9. **Provisions with respect to taxation.**—(*1*) The Iron and Steel Company shall be taxable in respect of the profits and gains of the business carried on by the dissolved company before the appointed day to the same extent as the dissolved company would have been taxable if this Ordinance had not been promulgated, and the Iron and Steel Company shall, in its assessment, be entitled to claim all such allowances under sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922) as the dissolved company could have claimed in its assessment if this Ordinance had not been promulgated.

(*2*) For the purposes of any law relating to taxation on income, the original cost to the Iron and Steel Company of the buildings, machinery, plant or furniture of the dissolved company transferred to it by virtue of this Ordinance shall be deemed to be the written down value thereof as reduced by the initial depreciation permitted by sub-section (*2*) of section 10 of the Indian Income-Tax Act, 1922 (XI of 1922), which has been or could have been computed by the dissolved company on the appointed day if this Ordinance had not been promulgated.

10. **Payment of interim dividends to shareholders in the dissolved company.**—If the profits of the dissolved company warrant such a course, the directors of the dissolved company may, at any time before the appointed day, declare the following dividends as being payable—

(*a*) to the holders of preference shares immediately before the appointed day, a dividend at the rate of five *per cent. per annum* on the amount paid up without deduction of Indian income-tax payable by the dissolved company for the period commencing on the 1st day of June, 1952, and ending with the 31st day of December, 1952;

(*b*) to the holders of ordinary shares whose names appear on the register of the company on the date of such payment, an *interim* dividend not exceeding two and a half *per cent.* on the amount paid up or credited as having been fully paid up thereon without deduction of Indian income-tax payable by the dissolved company for the period commencing on the 1st day of January, 1952, and ending with the 31st day of December, 1952.

11. **Provisions respecting existing officers and other servants of the dissolved company.**—Every officer or other servant (including within that expression auditors but excluding therefrom directors, managing agents and London Committee Members) employed immediately before the appointed day in the dissolved company shall, as from the appointed day, become an officer or other servant, as the case may be, of the Iron and Steel Company and shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension or gratuity as he would have held the same under the dissolved company if this Ordinance had not been promulgated, and shall continue to do so unless and until he is duly removed from his employment in the Iron and Steel Company or until his terms and conditions of employment are duly altered by that Company.

12. **Position of directors of the dissolved company.**—Every director of the dissolved company holding office as such immediately before the appointed day shall become, as from the appointed day, a director of the Iron and Steel Company, in addition to the other directors of the Iron and Steel Company holding office as such before the appointed day, and shall, subject to the provisions of the articles of association of the Iron and Steel Company, hold his office and act in all respects as if he had been duly appointed under the said articles.

13. **Dissolution of the Steel Corporation of Bengal, Limited.**—As from the appointed day—

(*a*) the Steel Corporation of Bengal, Limited, shall be dissolved and thereafter no person shall make, assert or take any claims, demands or proceedings against the dissolved company or against a director or officer thereof in his capacity as such director or officer, except in so far as may be necessary, for enforcing the provisions of this Ordinance;

(*b*) the right of every shareholder to or in respect of any share in the dissolved company shall be extinguished, and thereafter no such shareholder shall make, assert or take any claims or demands or proceedings in respect of any such share except as provided in this Ordinance.

14. **Power to make rules for facilitating amalgamation.**—The Central Government may, by notification in the Official Gazette, make such incidental, consequential or supplementary provisions as in its opinion are

necessary for fully and effectually carrying out the purposes of this Ordinance, and without prejudice to the generality of such power, provision may be made in such rules—

(*a*) for the allotting or appropriation by the Iron and Steel Company of any shares, debentures, policies or other like interests in that company which are to be allotted or appropriated under this Ordinance by that company to or from any person;

(*b*) for the disposal of shares in the dissolved company which do not represent one fully paid up share in the Iron and Steel Company under clause (*b*) of sub-section (*1*) of section 7, whether by the surrender to the Iron and Steel Company of the fractional certificates relating thereto with other fractional certificates so as to represent in all one fully paid up share, or at the option of the shareholder, by the surrender of the fractional certificates to the Iron and Steel Company for sale by the company on his account;

(*c*) for fixing the period within which any action required to be taken under this Ordinance may be taken;

(*d*) for the alteration, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), of the memorandum or articles of association of the Iron and Steel Company for the purpose of increasing the capital of the company or the borrowing powers of the directors thereof or for the purpose of securing the representation of the Central Government on the Board of Directors of the company or for any other purpose;

(*e*) for requiring any person concerned with the keeping of the register of the holders of any shares, securities or investments now transferred to and vesting in the Iron and Steel Company to forthwith register the name of the Iron and Steel Company therein, and to issue to the Iron and Steel Company the appropriate documents of title relating to the shares, securities or investments transferred to and vesting in it.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM, Secy.

GOVERNMENT OF INDIA.

Ministry of Law.

New Delhi, the 29th October 1952.

THE ABDUCTED PERSONS (RECOVERY AND RESTORATION). AMENDMENT ORDINANCE, 1952.

No. IX OF 1952.

An Ordinance further to amend the Abducted Persons (Recovery and Restoration) Act, 1949, for the purpose of continuing it in force for a further period.

WHEREAS Parliament is not in session, and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title and commencement.**—(*1*) This Ordinance may be called the Abducted Persons (Recovery and Restoration) Amendment Ordinance, 1952.

(*2*) It shall come into force at once.

2. **Amendment of section 1, Act LXV of 1949.**—During the period of operation of this Ordinance, the Abducted Persons (Recovery and Restoration) Act, 1949, shall have effect as if in sub-section (*2*) of section 1, for the words and figures "31st day of October, 1952" the words and figures "31st day of December, 1952" had been substituted.

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM, Secy.

(*iii*) for Item No. 63(34), the following Item shall be substituted, namely:—

"63(34)	Iron or steel hoops—						
	(*a*) Jute baling hoops—						
	(*i*) of British manufacture.	Protective	30 per cent. *ad valorem*.	..	..	December 31st, 1953.	
	(*ii*) not of British manufacture.	Protective	40 per cent. *ad valorem*.	..	..	December 31st, 1953.	
	(*b*) Cotton baling hoops—						
	(*i*) of British manufacture.	Protective	30 per cent. *ad valorem*.	..	..	December 31st, 1953.	
	(*ii*) not of British manufacture.	Protective	40 per cent. *ad valorem*.	..	..	December 31st, 1953".	

(*iv*) in Item No. 72(34), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "March 31st, 1953", the word, figures and letters "December 31st, 1953" shall be substituted;

(*v*) in Item No. 73(15), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1952", wherever they occur, the word, figures and letters "December 31st, 1955" shall be substituted.

K. V. K. SUNDARAM, Secy.

Registered No. C207

The Calcutta Gazette

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THURSDAY, DECEMBER 18, 1952

PART V—Acts of the Parliament of India assented to by the President and Ordinances promulgated by the President

MINISTRY OF LAW.

The following Act of the Parliament of India received the assent of the President on the 2nd December, 1952, and is hereby published for general information:—

ACT No. LXVI OF 1952.

THE INDIAN TARIFF (FOURTH AMENDMENT) ACT, 1952.

[*2nd December, 1952.*]

An Act further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament as follows:—

1. Short title and commencement.—(*1*) This Act may be called the Indian Tariff (Fourth Amendment) Act, 1952.

(*2*) The provisions of clause (*iii*) of section 2 [relating to Item No. 63(34)] shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; but the remaining provisions shall come into force at once.

2. Amendment of the First Schedule, Act XXXII of 1934.—In the First Schedule to the Indian Tariff Act, 1934,—

(*i*) in Items Nos. 8(3), 11(6), 18, 20(3), 20(4), 20(8), 20(9), 21(3), 28(4), 28(15), 28(17), 28(20), 30(7), 30(9), 30(10), 40(4), 40(5), 45(4), 46, 46(1), 47, 47(1), 48, 48(1), 48(4), 48(5), 48(7), 50(3), 60(7), 63(33)(a), 63(35), 64, 64(3), 64(4), 65(a), 66(a), 66(1), 67, 67(1), 67(2), 68, 68(2), 69(2), 70, 70(1), 70(2), 70(3), 70(4), 70(5), 70(6), 70(9), 71(7), 72(12), 72(33), 73(7), 73(16), 75(5), 75(6), 75(7), 75(8) and 82(3), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1952", wherever they occur, the word, figures and letters "December 31st, 1953" shall be substituted;

(*ii*) in Item No. 28(18)(b), (c) and (d), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1952", wherever they occur, the word, figures and letters "December 31st, 1954" shall be substituted;

(*iii*) for Item No. 63(34), the following Item shall be substituted, namely:—

"63(34)	Iron or steel hoops—				
	(*a*) Jute baling hoops—				
	(*i*) of British manufacture.	Protective	30 per cent. *ad valorem*.		December 31st, 1953.
	(*ii*) not of British manufacture.	Protective	40 per cent. *ad valorem*.		December 31st, 1953.
	(*b*) Cotton baling hoops—				
	(*i*) of British manufacture.	Protective	30 per cent. *ad valorem*.		December 31st, 1953.
	(*ii*) not of British manufacture.	Protective	40 per cent. *ad valorem*.		December 31st, 1953".

(*iv*) in Item No. 72(34), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "March 31st, 1953", the word, figures and letters "December 31st, 1953" shall be substituted;

(*v*) in Item No. 73(15), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1952", wherever they occur, the word, figures and letters "December 31st, 1955" shall be substituted.

K. V. K. SUNDARAM, Secy.

Registered No. C207

The Calcutta Gazette

THURSDAY, DECEMBER 18, 1952

PART VI.—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 16th July, 1952:—

BILL No. 81 OF 1952.

A Bill to make provision for the prevention of juvenile vagrancy and begging.

BE it enacted by Parliament as follows:—

1. Short title and extent.—(*1*) This Act may be called the Prevention of Juvenile Vagrancy and Begging Act, 19 .

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.—In this Act, unless the context otherwise requires,—

"Vagrancy" shall include wandering, remaining idle or disorderly.

"Begging" shall include act of acquiring the habit of asking alms or charity.

"Juvenile" shall include a person below the age of eighteen.

3. Persons committing offence.—If a person below the age of eighteen either of whose parents or any guardian, or any other person giving protection to such a person is alive, is found to be wandering about or begging on trains, in public places, or from door to door by singing songs or otherwise, he as well as his parents or guardian or protector shall be guilty of committing an offence under this Act.

4. Punishment for juvenile vagrancy or begging.—Any person who commits offence under section 3 shall be punishable with rigorous imprisonment which may extend to three months or with fine which may extend to two hundred rupees or with both.

STATEMENT OF OBJECTS AND REASONS.

Begging by persons is a blot against national honour and it is more so when it is resorted to by able-bodied juvenile persons. This Bill is intended to stop vagrancy and begging.

M. L. DWIVEDI.

M. N. KAUL, Secy.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 5th November, 1952:—

BILL No. 98 OF 1952.

A Bill further to amend the Indian Patents and Designs Act, 1911.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Patents and Designs (Amendment) Act, 1952.

2. Insertion of new section 23CC in Act II of 1911.—After section 23C of the Indian Patents and Designs Act, 1911 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

"23CC. *Inventions relating to food or medicine, etc.*—(*1*) Without prejudice to the foregoing provisions of this Act, where a patent is in force in respect of—

(*a*) a substance capable of being used as food or medicine or in the production of food or medicine; or

(*b*) a process for producing such a substance as aforesaid; or

(*c*) any invention capable of being used as or as part of a surgical or curative device,

the Controller shall, on application made to him by any person interested, order the grant to the applicant of a licence under the patent on such terms as he thinks fit, unless it appears to him that there are good reasons for refusing the application.

(*2*) In settling the terms of licences under this section the Controller shall endeavour to secure that food, medicines, and surgical and curative devices shall be available to the public at the lowest prices consistent with the patentees' deriving a reasonable advantage from their patent rights.

(*3*) A licence granted under this section shall entitle the licensee to make, use, exercise and vend the invention as a food or medicine, or for the purposes of the production of food or medicine or as part of a surgical or curative device, but for no other purposes."

3. Amendment of section 23D, Act II of 1911.—In sub-section (*1*) of section 23D of the principal Act, for the words, figures and letters 'or section 23A' the words, figures and letters 'section 23A or section 23CC' shall be substituted.

4. Amendment of section 23E, Act II of 1911.—In section 23E of the principal Act—

(*a*) in sub-section (*1*), for the words, figures and letter 'or section 23B', the words, figures and letters 'section 23B or section 23CC' shall be substituted;

(*b*) in sub-section (*2*), after the words, figures and letter 'or section 23B' the words, figures and letters 'or section 23CC' shall be inserted.

5. Amendment of section 23F, Act II of 1911.—In sub-section (*1*) of section 23F of the principal Act, after the word, figures and letter 'section 23B' the words, figures and letters "or under section 23CC' shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The power of the Controller of Patents and Designs to grant working licences in respect of patents is at present unduly restricted. Such power can be exercised only under certain specified conditions. One such condition is that a period of three years must elapse from the sealing of a patent

before a person may apply for a licence on that patent. This provision is an obstacle to the early establishment of factories for the production of food, medicines and surgical and curative devices. The Bill removes this obstacle and empowers the Controller of Patents and Designs to grant working licences under patents in respect of articles of food, medicines and surgical and curative devices to interested persons at any time whilst the patent is in force. Similar powers have been taken in the United Kingdom under section 41 of the Patents Act, 1949.

T. T. KRISHNAMACHARI.

NEW DELHI;
The 23rd October, 1952.

M. N. KAUL, Secy.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 5th November, 1952:—

BILL* No. 105 OF 1952.

A Bill to provide for the levy and collection for a temporary period of an additional duty of excise on sugar.

BE it enacted by Parliament as follows:—

1. Short title and extent.—(*1*) This Act may be called the Sugar (Temporary Additional Excise Duty) Act, 1952.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the 6th day of November, 1952;

(*b*) "sugar" means any form of sugar containing more than ninety *per cent.* of sucrose, but does not include—

(*i*) *khandsari* sugar, that is to say, sugar in the manufacture of which neither a vacuum pan nor a vacuum evaporator is employed, and

(*ii*) *palmyra* sugar, that is to say, sugar manufactured from jaggery obtained by boiling the juice of the *palmyra* palm;

(*c*) "finished sugar" means sugar fully manufactured and ready for marketing.

3. Levy and collection of additional duty of excise on certain forms of sugar.—(1) There shall be levied and collected in respect of all sugar manufactured on or after the appointed day in the territories to which this Act extends, and on all sugar lying in stock on the appointed day in any factory where sugar is manufactured or in any premises appurtenant thereto, a duty of excise at the rate of one rupee and six annas per cwt.:

Provided that no such duty shall be levied in respect of that quantity of finished sugar, if any, lying in stock in any such factory or premises on the appointed day which is in excess of the quantity of finished sugar manufactured in the factory before the appointed day from the sugar-cane crop commonly known as the 1952-53 sugar-cane crop.

(2) The duty of excise specified in sub-section (1) shall be in addition to the duty of excise chargeable on sugar under the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944), and shall be levied and collected in the same manner as the duty of excise on sugar is levied and collected under that Act.

*The President has, in pursuance of clause (1) of article 117 of the Constitution of India, recommended to the House of the People the introduction of the Bill.

4. Power of Central Government to discontinue levy.—The Central Government may, by notification in the Official Gazette, declare that, with effect from such date as may be specified in the notification, the additional duty of excise leviable under this Act shall, for the reasons specified in the notification, cease to be levied in any specified area or on sugar generally or on sugar manufactured in a specified factory.

Declaration under the Provisional Collection of Taxes Act, 1931.

It is hereby declared that it is expedient in the public interest that the provisions of clause 3 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

STATEMENT OF OBJECTS AND REASONS

The minimum price to be paid by vacuum-pan sugar factories for sugarcane delivered at their gate during the 1952-53 season has been fixed by the Central Government at Rs. 1-5-0 per maund as against Rs. 1-12-0 per maund in 1951-52. With this substantial reduction in the price of sugarcane, the internal consumer would naturally expect a reduction in the price of sugar also. It will not, however, be possible to release for consumption the sugar produced from the 1952-53 low price cane until the controlled sugar of 1951-52 season produced from high price cane, has been nearly exhausted: The reason is that Government have guaranteed controlled prices for the 1951-52 sugar varying from Rs. 29-12-0 per maund to Rs. 34-14-0 per maund in different regions.

2. The carry-over of the 1951-52 stocks of controlled sugar with factories on the 30th November 1952 is estimated at about 4 lakhs tons, and will last for nearly 4 months more, *i.e.*, up to the end of March, 1953.

3. With a view, however, to giving speedy relief to the consumer, and facilitating trnasition from high-priced to low-priced sugar, the ex-factory price of 1951-52 sugar will be reduced when the new sugar generally becomes available for consumption. For the time being, however, the loss incurred by these reductions in prices on the 1951-52 sugar, which is estimated at Rs. 4·3 crores, is proposed to be recovered from consumer by the levy of an additional excise duty of Rs. 1-6-0 per cwt. (*i.e.* Re. 1 per maund) on all sugar of the 1952-53 season in stock with factories on the 6th November, 1952, or produced on or after that date. If the proposed levy is not imposed, the price of 1952-53 sugar would be about Rs. 6 to Rs. 7 per maund lower than the controlled rate of 1951-52. With the additional levy, this benefit to the consumer would be reduced by Re. 1 per maund. On the other hand, it would enable the issue price of the entire carry-over of the 1951-52 controlled sugar to be reduced, as quickly as possible, by Rs. 4 per maund on the average.

4. The present Bill gives effect to these proposals and also contains a provision whereby the additional duty may be discontinued in any case where the object of this Bill has been achieved.

C. D. DESHMUKH.

NEW DELHI;
The 25th October, 1952.

M. N. KAUL, Secy.

Registered No. C207

The Calcutta Gazette

THURSDAY, JULY 24, 1952

PART VI—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 16th May, 1952:—

BILL NO. 29 OF 1952.

A Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952.

2. Declaration of certain goods to be essential for the life of the community.—The goods specified in the Schedule are hereby declared to be essential for the life of the community.

3. Regulation of tax on sale or purchase of essential goods.—No law made after the commencement of this Act by the legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods declared by this Act to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

THE SCHEDULE.

(*See* section 2.)

Goods declared essential for the life of the community.

1. Cereals and pulses in all forms, including bread and flour, including atta, maida, suji and bran (except when any such article is sold in sealed containers).

2. Green or dried vegetables and flower seeds, bulbs and plants and fresh and dried fruits, other than medical preparations (except when any such article is sold in sealed containers).

3. Fresh milk, whole or separate, and milk products.

4. Salt.

5. Coarse and medium handloom and mill-made cotton cloth and handloom woollen cloth.

6. Fertilizers and agricultural machinery and implements.

7. Raw cotton, including ginned and unginned cotton or kapas or cotton thread, cotton seed, raw jute and sugarcane.

8. Coal including coke and other derivatives, petroleum and petroleum products, including motor spirit and electrical energy, except energy intended for domestic use.

9. Iron and steel.

STATEMENT OF OBJECTS AND REASONS.

Article 286(3) of the Constitution provides that—

> "No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent."

A list of goods essential for the life of the community for the purpose of the abovementioned provisions has accordingly been drawn up and the Bill provides that the imposition, after the enactment of the Bill, of a sales or purchase tax on these goods should be reserved for the consideration of the President. The Bill, if enacted, may help to achieve a certain measure of uniformity in the taxes, and also prevent essential goods being unduly taxed.

The Bill was introduced in the Provisional Parliament on the 7th June, 1951, but could not be passed owing to want of time

C. D. DESHMUKH.

NEW DELHI:
The 13th May, 1952.

M. N. KAUL, Secy.

Registered No. C207

The Calcutta Gazette

THURSDAY, AUGUST 7, 1952

PART VI.—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

The following Bill was introduced in the House of the People on 26th May, 1952:—

BILL* No. 38 OF 1952.

A Bill further to amend the Indian Income-tax Act, 1922.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Income-tax (Amendment) Act, 1952.

2. Amendment of section 2, Act XI of 1922.—In section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act),—

(*a*) for clause (*2*), the following clause shall be substituted, namely:—

"(*2*) 'assessee' means a person by whom income-tax (whether with or without interest) or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the loss sustained by him or of the amount of refund due to him;";

(*b*) clause (*6*) shall be renumbered as clause (*5A*), and after clause (*5A*) as so renumbered, the following clause shall be inserted, namely:—

"(*6*) 'Director of Inspection' means a person appointed to be a Director of Inspection under section 5, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection;";

*The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the House of the People the introduction of the Bill.

(*c*) after clause (*6D*), the following clause shall be inserted, namely:-

"(*6E*) 'Inspector of Income-tax' means a person appointed to be a Inspector of Income-tax under section 5;";

(*d*) for clause (*11*), the following clause shall be substituted, namely.:-

"(*11*) 'previous year' means—

(*i*) in respect of any separate source of income, profits and gains-

(*a*) the twelve months ending on the 31st day of March nex preceding the year for which the assessment is to be made or, if the accounts of the assessee have been made up t a date within the said twelve months in respect of a yea ending on any date other than the said 31st day of March then, at the option of the assessee, the year ending on th date to which his accounts have been so made up:

Provided that where in respect of a particular source of income profits and gains an assessee has once been assessed, o where in respect of a business, profession or vocatio newly set up an assessee has exercised the option unde sub-clause (*c*), he shall not, in respect of that source o as the case may be, business, profession or vocatio exercise the option given by this sub-clause so as to var the meaning of the expression 'previous year' as the applicable to him except with the consent of the Incom tax Officer and upon such conditions as the Income-ta Officer may think fit to impose; or

(*b*) in the case of any person, business or company or class person, business or company, such period as may determined by the Central Board of Revenue or by suc authority as the Board may authorise in this behalf; o

(*c*) where a business, profession or vocation has been newly s up in the financial year preceding the year for whi assessment is to be made, the period from the date of t setting up of the business, profession or vocation to t 31st day of March next following or to the last day of t period determined under sub-clause (*b*), or, if the accoun of the assessee are made up in respect of a period n exceeding twelve months from the date of the setting of the business, profession or vocation and the case is n one for which a period has been determined under su clause (*b*), then, at the option of the assessee, the peri from the date of the setting up of the business, professi or vocation to the date to which his accounts have be so made up:

Provided that when such other date does not fall between t setting up of the business, profession or vocation and t next following 31st day of March inclusive, it shall deemed that there is no previous year for the said asse ment year and the previous year which would otherw have been determined according to the option exercis by the assessee shall be deemed to be the previous year the next succeeding assessment year;

(*ii*) in respect of the share of the income, profits and gains of firm where the assessee is a partner in the firm the peri as determined for the assessment of the income, profits a gains of the firm;".

3. **Amendment of section 4, Act XI of 1922.**—(*1*) In section 4 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) after the third proviso, the following further provisos shall be inserted, namely:—

"Provided further that, in the case of a person who was not resident in the taxable territories in two out of the three years immediately preceding the previous year, so much of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) as accrued or arose to him without India, shall not be included in his total income chargeable in any year subsequent to the year ending on the 31st day of March, 1951, whether his assessment for that year has or has not been completed before the commencement of the Indian Income-tax (Amendment) Act, 1952:

Provided further that, in the case of a person resident in the taxable territories to whom the preceding proviso or paragraph 8 of the Part B States (Taxation Concessions) Order, 1950, does not apply, so much of the income, profits and gains referred to in sub-clause (*iii*) of clause (*b*) as accrued or arose to him without India and were not chargeable under this Act, unless brought into or received in the taxable territories, shall not be included in his total income if—

(*i*) such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September, 1951, and before the 1st day of April, 1954;

(*ii*) half of the amount of such income, profits and gains is invested, within three months of the receipt thereof in the taxable territories, in securities of the Central Government or of a State Government purchased through the Reserve Bank of India and kept with the said Bank for custody for a minimum period of two years; and

(*iii*) Out of the remaining half, the amount of any income-tax, interest or penalty or any other sum due from such person under this Act on the date of receipt of such income, profits and gains in the taxable territories is paid within the said three months.";

(*ii*) in *Explanation 2*, after the words "payable in the taxable territories", the words, brackets and figures "and not being pension payable without India to any person referred to in clause (*2*) of article 221 or article 314 of the Constitution" shall be inserted;

(*b*) in sub-section (*3*),—

(*i*) for clauses (*i*) *and* (*ia*), the following clause shall be substituted, namely:—

"(*i*) Subject to the provisions of clause (*c*) of sub-section (*1*) of section 16, any income derived from property held under a trust or other legal obligation solely for religious or charitable purposes, in so far as such income is applied to such religious or charitable purposes only, and in the case of a property so held in part only for such purposes, the income applied or finally set apart for application thereto:

Provided that such income shall be included in the total income unless—

(*i*) in the case of property held under a trust or other legal obligation created before the commencement of the Indian Income-tax (Amendment) Act, 1952, the income therefrom is applied to religious and charitable purposes without the taxable territories, the Central Board of Revenue by general or special order in this behalf otherwise directs; and

(*ii*) in the case of income derived from business carried on on behalf of a religious and charitable institution, the income is applied wholly for the purposes of the institution and—

(*a*) the business is carried on in the course of the carrying out of a primary purpose of the institution, or

(*b*) the work in connection with the business is mainly carried on by the beneficiaries of the institution;";

(*ii*) in clause (*xii*), for the figures "1952" the figures "1954" shall be substituted;

(*iii*) after clause (*xiii*), the following clauses shall be inserted, namely:—

"(*xiv*) Any income received by an employee of a foreign enterprise, not engaged in any trade or business in the taxable territories, as remuneration for services rendered by him during the course of his stay in the taxable territories, where such stay does not exceed in the aggregate a period of ninety days in any year and where such remuneration is not liable to be deducted from the income, profits and gains chargeable under the Act.

(*xv*) Any income received as remuneration, whether directly or indirectly, from the Government of a foreign State by any person who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of that foreign State (the terms whereof provide for the exemption given by this clause) and any other income of such person or of the members of his family accompanying him to India, which accrues or arises without the taxable territories, and is not deemed to accrue or arise in the taxable territories, upon which such person or the members of his family are required to pay any income or social security tax to the Government of that foreign State.

(*xvi*) Any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development, except where the holder of such bond is a person resident in the taxable territories.

(*xvii*) Interest on the 3½ per cent. Ten Year Treasury Saving Deposit Certificates issued by or under the authority of the Central Government for an amount not exceeding the maximum amount which an assessee is entitled to deposit in such certificates.

(*xviii*) Interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949.

(*xix*) Any daily allowance received by, or which has accrued due to person before the 1st day of April, 1952, by reason of his membership of the Dominion Legislature or of the Constituent Assembly or of Parliament or of any State Legislature or of any Committee thereof."

(*c*) in the last paragraph, in the definition of "charitable purpose", the word, letter and brackets "clause (*ia*)" shall be omitted, and for the words "income of a private religious trust" the words "income from property held under a trust or other legal obligation for private religious purposes" shall be substituted.

(*2*) The amendments made by sub-clause (*iii*) of clause (*b*) of sub-section (*1*) shall be deemed to be operative in relation to all assessments for any year whether such assessments have or have not been completed before the commencement of the Indian Income-tax (Amendment) Act, 1952.

4. Amendment of section 5, Act XI of 1922.—In section 5 of the principal Act,—

(*a*) in sub-section (*1*)—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—
"(*aa*) Directors of Inspection,";

(*ii*) after clause (*d*), the following clause shall be inserted, namely:—
"(*e*) Inspectors of Income-tax.";

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The Central Government may appoint as many Directors of Inspection as it thinks fit, and Directors of Inspection shall, subject to the control of the Central Board of Revenue, perform such functions of any other Income-tax authority as may be assigned to them by the Central Government.";

(*c*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The Central Government may appoint as many Commissioners of Income-tax as it thinks fit and they shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as the Central Board of Revenue may direct, and where such directions have assigned to two or more Commissioners of Income-tax the same area or the same persons or classes of persons or the same income or classes of incomes or the same cases or classes of cases, they shall have concurrent jurisdiction subject to any orders which the Central Board of Revenue may make for the distribution and allocation of work to be performed.";

(*d*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) The Central Government may appoint as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers of Class I service as it thinks fit, and the Commissioner may, subject to the rules and orders of the

Central Government regulating the conditions of service o persons in public services and posts, appoint as many Income tax Officers of Class II service and Inspectors of Income tax as may, from time to time, be sanctioned by the Centra Government.

(*3A*) Subject to the rules and orders of the Central Governmen regulating the conditions of service of persons in publi services and posts, an income-tax authority may appoint suc executive or ministerial staff as may be necessary to assist in the execution of its functions.";

(*e*) in the second sentence of sub-section (*5*), the words "with th previous approval of the Central Board of Revenue" shall t omitted, and for the words "Appellate Assistant Commissioner wherever they occur in this sentence, the words "Inspectin Assistant Commissioner" shall be substituted;

(*f*) after sub-section (*5*), the following sub-section shall be inserte namely:—

"(*5A*) Inspectors of Income-tax shall perform such functions in th execution of this Act as are assigned to them by the Incom tax Officer or other income-tax authority under whom they a appointed to work, and shall be subordinate to such officer authority.";

(*g*) for sub-section (*7*), the following sub-section shall be substitute namely:—

"(*7*) For the purposes of this Act,—

(*i*) Appellate Assistant Commissioners of Income-tax shall subordinate to the Commissioner of Income-tax with whose jurisdiction they perform their functions; but orders, instructions or directions shall be given to them as to interfere with their discretion in the exercise of the appellate functions;

(*ii*) Inspecting Assistant Commissioners shall be subordinate to t Director of Inspection and to the Commissioner of Incom tax within whose jurisdiction they perform their function

(*iii*) Income-tax Officers shall be subordinate to the Director Inspection, the Commissioner of Income-tax and t Inspecting Assistant Commissioner of Income-tax with whose jurisdiction they perform their functions."

(*h*) after sub-section (*7A*), the following sub-sections shall be insert namely:—

"(*7B*) The Director of Inspection, the Commissioner or the Inspe ing Assistant Commissioner, as the case may be, may iss such instructions as he thinks fit for the guidance of a Income-tax Officer subordinate to him in the matter of a assessment, and for the purposes of making any inquiry unc this Act (which he is hereby empowered to do), the Direc of Inspection, the Commissioner and the Inspecting Assista Commissioner shall have all the powers that an Income-t Officer has under this Act in relation to the making inquiries; and the question whether any, and if so, wh instructions were issued shall not be inquired into by a appellate authority under this Act or by any Court.

(7C) Whenever in respect of any proceeding under this Act an Income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the Income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor."

5. Amendment of section 5A, Act XI of 1922.—In section 5A of the principal Act,—

(*a*) in sub-section (*2*), the proviso shall be omitted;

(*b*) in sub-section (*3*), for the words beginning with "A judicial member shall be" and ending with the words and figures "the Auditors Certificates Rules, 1932:", the following shall be substituted namely:—

"A judicial member shall be a person who has for at least ten years either held a civil judicial post or been in practice as an advocate of a High Court, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949) or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant:";

(*c*) in sub-section (*4*), the word "judicial" shall be omitted.

6. Amendment of section 7, Act XI of 1922.—In sub-section (*1*) of section 7 of the principal Act, in the proviso to *Explanation 2*, after the words "liable to income-tax any payment" the words "of death *cum* retirement gratuity received after the 16th day of April, 1950, under the revised Pension Rules of the Central Government or under any similar scheme of a State Government or any payment" shall be inserted.

7. Amendment of section 9, Act XI of 1922.—(*1*) In section 9 of the principal Act,—

(*a*) in sub-section (*1*)—

(*i*) the words "*bona fide*" shall be omitted;

(*ii*) after clause (*ii*), the following proviso shall be inserted, namely:—

"Provided that for the purposes of making any assessment for the year ending on the 31st day of March, 1952, in respect of the property situated in an area affected by the Assam earthquake of 1950, the allowance on account of repairs referred to in clauses (*i*) and (*ii*) shall be increased up to a maximum of one half of the annual value thereof or the amount of expenditure proved to have been actually incurred for repairs, whichever is the less";

(*b*) for the first proviso to sub-section (*2*), the following proviso shall be substituted, namely:—

"Provided that, where the property is in the occupation of the owner for the purposes of his own residence, the annual value shall be determined in the same manner as if the property had been let to a tenant, so however that, where the sum so determined exceeds ten per cent. of the total income of the owner, the annual value of the property shall be deemed to be ten per cent. of such total income".

(2) The amendments made by sub-clause (*ii*) of clause (*a*) of sub section (*1*) shall be deemed to be operative for any assessment for the yea ending on the 31st day of March, 1952, whether made before or after th commencement of this Act, and where any such assessment has been mad before such commencement it shall be lawful for the Income-tax Officer t revise it, wherever necessary, to give effect to this amendment.

8. Amendment of section 10, Act XI of 1922.—In section 10 of th principal Act,—

(*a*) in sub-section (*2*),—

(*i*) in sub-clause (*a*) of clause (*vi*), for the figures "1952", th figures "1954" shall be substituted, and in clause (*b*) of th proviso to that clause, for the words "where full" the word "where, in the assessment of the assessee or if the assessee a registered firm, in the assessment of its partners, full" shal be substituted;

(*ii*) in clause (*via*), for the words and figures "in the assessments fo each of the five years commencing on the 1st day of April 1949, and ending with the 31st day of March, 1954", th words and figures "in not more than five successive assess ments for the financial years next following the previous yea in which such buildings are erected and such machinery an plant installed and falling within the period commencing o the 1st day of April, 1949, and ending on the 31st day o March, 1959" shall be substituted, and in the proviso to tha clause, for the words and figures "on the 31st day of March 1953" the words "on the 31st day of March immediatel preceding the last financial year in which the further su referred to in this clause is admissible" and for the words "i the assessment for the year commencing next after that date" the words "in the assessment for such last financial year shall respectively be substituted;

(*iii*) in clause (*xv*), for the words and brackets "(not being in th nature of capital expenditure or personal expenses of th assessee)" the words and brackets "(not being a allowance of the nature described in any of the clause (*i*) (*xiv*) inclusive, and not being in the nature of capital expend ture or personal expenses of the assessee)" shall be substitute

(*b*) in sub-section (*5*),—

(*i*) after clause (*b*), the following clause shall be inserted, namely:-

"(*c*) in the case of assets acquired by the assessee by way of gift inheritance, the 'written-down-value' as in the case of t previous owner or the market value thereof whichever is t less:" and

(*ii*) at the end, the following *Explanation* shall be inserte namely:—

"*Explanation.*—For the purposes of this sub-section, the expre sion 'actual cost' means the actual cost of the assets reduced by the amounts, if any, received in the course business from any outside source for or in connection wi the purchase of such assets, and any allowance in respect any depreciation carried forward under clause (*b*) of the pr viso to clause (*vi*) of sub-section (*2*) shall be deemed to depreciation 'actually allowed';".

9. **Amendment of section 14, Act XI of 1922.**—In section 14 of the principal Act, in clause (*c*) of sub-section (*2*), for the words and letter "Part B State" the words "the State of Jammu and Kashmir" shall be substituted.

10. **Amendment of section 15C, Act XI of 1922.**—In section 15C of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) in clause (*ii*), for the word "three" the word "six" shall be substituted;

(*ii*) in clause (*iii*), for the word "fifty" the word "twenty-five" shall be substituted;

(*b*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(*6*) The provisions of this section shall apply to the assessment for the financial year next following the previous year in which the assessee begins to manufacture or produce articles and for the four assessments immediately succeeding."

11. **Amendment of section 17, Act XI of 1922.**—In sub-scetion (*1*) of section 17, after the first proviso, the following further proviso shall be inserted, namely:—

"Provided further that where any such person satisfies the Income-tax Officer that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment had not been completed before such declaration) and all assessments thereafter."

12. **Amendment of section 18, Act XI of 1922.**—In section 18 of the principal Act,—

(*a*) in sub-section (*2B*), for the words "at the rate or rates applicable to the estimated income of the assessee under this head", the following shall be substituted, namely:—

"on the estimated income of the assessee under this head in accordance with the provisions of clause (*b*) of sub-section (*1*) of section 17;

Provided that where—

(*i*) the person not so resident has obtained a certificate in writing from the Income-tax Officer (which certificate the Income-tax Officer shall be bound to give in every proper case on the application of the assessee) stating that income-tax and super-tax may be deducted at the rates specified therein, or

(*ii*) the Income-tax Officer has, by an order in writing, required the person responsible for making payment to deduct income-tax and super-tax at the rates specified in that order,

the person responsible for making payment shall, until such certificate or order is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or order, as the case may be.";

(*b*) for sub-sections (*3A*), (*3B*), (*3C*), (*3D*) and (*3E*), the following sub-sections shall be substituted, namely:—

"(*3A*) The person responsible for paying any income chargeable under the head "Interest on securities" to a person whom he has no reason to believe to be resident in the taxable territories, shall, at the time of payment, deduct super-tax on the amount of such interest—

(*i*) if such person is a company, at the rate applicable to a company.

(*ii*) if such person is not a company, in accordance with the provisions of clause (*b*) of sub-section (*1*) of section 17:

Provided that where such person is not a company, the proviso to sub-section (*2B*) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (*2B*).

(*3B*) Any person responsible for paying to a person not resident in the territories any interest not being "Interest on securities" or any other sum chargeable under the provisions of this Act shall, at the time of payment, unless he is himself liable to pay any income-tax and super-tax thereon as an agent, deduct income-tax at the maximum rate and super-tax at the rate applicable to a company or in accordance with the provisions of sub-clause (*b*) of sub-section (*1*) of section 17, as the case may be:

Provided that where the person not resident is not a company, the proviso to sub-section (*2B*) shall apply to the deduction of income-tax and super-tax under this sub-section as it applies to the deduction of income-tax and super-tax under sub-section (*2B*):

Provided further that nothing in this section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payment is deemed under the first proviso to section 43 not to be an agent of the payee.

(*3C*) Where the person responsible for paying any sum chargeable under this Act other than interest, to a person not resident in the taxable territories, considers that the whole of such sum would not be income chargeable in the case of the receipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable and upon such determination tax shall be deducted therefrom by the person responsible for making such payment in accordance with the provisions of sub-section (*3B*).

(*3D*) The principal officer of an Indian company or a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from dividends shall, at the time of paying any dividend to a shareholder whom the principal officer has no reason to believe to be

resident in the taxable territories, deduct super-tax on the amount of such dividend as increased in accordance with the provisions of sub-section (*2*) of section 16—

(*i*) if the shareholder is a company, at the rate applicable to a company,

(*ii*) if the shareholder is a person other than a company, in accordance with the provisions of clause (*b*) of sub-section (*1*) of section 17:

Provided that in the case of a shareholder other than a company, the proviso to sub-section (*2B*) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (*2B*).;

(*c*) in sub-section (*5*), after the words "Any deduction made" the words "and paid to the account of the Central Government" shall be inserted; after the words "given to him therefor" the words "on the production of the certificate furnished under sub-section (*9*) or section 20, as the case may be," shall be inserted, and after the second proviso, the following further proviso shall be inserted, namely:—

"Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted or in respect of any sum by which the dividend has been increased under sub-sectioin (*2*) of section 16, may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income.";

(*d*) in sub-section (*7*), for the words, brackets, figures and letters "sub-sections (*3D*) *and* (*3E*)" the word, brackets, figure and letter "sub-section (*3D*)" shall be substituted;

(*e*) in sub-section (*9*), for the brackets, figures letters and word "(*3C*), (*3D*) or (*3E*)", the word, brackets, figure and letter "or (*3D*)" shall be substituted;

(*f*) after sub-section (*9*), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of this section and section 20A, the expression 'person responsible for paying' means—

(*i*) in the case of payments of income chargeable under the head 'Salaries' other than payments by the Central Government or the Government of a State, the employer himself or if the employer is a company, the company itself including the principal officer thereof;

(*ii*) in the case of payments of income chargeable under the head 'Interest on securities', other than payments made by or on behalf of the Central Government or the Government of a State, the local authority or company including the principal officer thereof;

(*iii*) in the case of payment of interest not being 'Interest on securities', the payer himself or if the payer is a company, the company itself including the principal member thereof."

13. Amendment of section 18A, Act XI of 1922.—In section 18A of the principal Act,—

(*a*) in sub-section (*1*) (*a*), for the words "if that total income exceeded six thousand rupees", the words "if that total income exceeded the maximum amount not chargeable to tax in his case by two thousand five hundred rupees" shall be substituted;

(*b*) in sub-section (*3*), for the words "is likely to exceed six thousand rupees," the words "is likely to exceed the maximum amount not chargeable to tax in his case by two thousand five hundred rupees" shall be substituted;

(*c*) to sub-section (*5*), the following further proviso shall be added, namely:—

"Provided further that no interest shall be payable after the 31st day of March, 1952.";

(*d*) in sub-section (*6*),—

(*i*) in the first proviso after the word "Provided", the word "further" shall be inserted and before that proviso, the following proviso shall be inserted, namely:—

"Provided that after the 31st day of March, 1952, interest shall be payable at the rate of four per cent. per annum:";

(*ii*) after the last proviso, the following further proviso shall be inserted, namely:—

"Provided further that where the assessment is not contested by the assessee and the tax has been paid accordingly, the Income-tax Officer may, having regard to the circumstances of the case, reduce or waive the interest payable by the assessee."

14. Amendment of section 22, Act XI of 1922.—In section 22 of the principal Act,—

(*a*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) If any person, who has not been served with a notice under sub-section (*2*) has sustained a loss of profits or gains in any year under the head 'Profits and gains of business, profession or vocation', and such loss or any part thereof would ordinarily have been carried forward under sub-section (*2*) of section 24, he shall, if he is to be entitled to the benefit of the carry forward of loss in any subsequent assessment, furnish within the time specified in the general notice given under sub-section (*1*), all the particulars required under the prescribed form of return of total income and total world income in the same manner as he would have furnished a return under sub-section (*1*) had his income exceeded the maximum amount not liable to income-tax in his case, and all the provisions of this Act shall apply as if it were a return under sub-section (*1*).";

(*b*) in sub-section (*4*), for the words "such accounts or documents as the Income-tax Officer may require" the following shall be substituted, namely:—

"such accounts or documents, including accounts relating to any year subsequent to the previous year, as the Income-tax Officer may require, or to furnish in writing and verified in the

prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities not included in the accounts) as the Income-tax Officer may require:".

15. Amendment of section 24, Act XI of 1922.—In section 24 of the principal Act,—

(*a*) in sub-section (*1*), for the first proviso, the following proviso shall be substituted, namely:—

"Provided that in computing the income, profits and gains chargeable under any head or the loss of profits and gains falling under any head, so much of any loss of profits and gains as would but for the loss have accrued or arisen within the State of Jammu and Kashmir, shall not be taken into account except to the extent of the amount of income, profits and gains, if any, which would be exempt under the provisions of clause (*c*) of sub-section (*2*) of section 14.";

(*b*) in sub-section (*2*),—

(*i*) for the words "under the head 'Profits and gains of business, profession or vocation'," the words "in any business, profession or vocation" shall be substituted;

(*ii*) for clause (*a*) of the proviso, the following clause shall be substituted, namely:—

"(*a*) where the loss sustained is in any business, profession or vocation, so much of such loss as is referred to in the first proviso to sub-section (*1*) shall not be set off except against the profits and gains accruing or arising in the State of Jammu and Kashmir from the same business, profession or vocation and exempt from tax under the provisions of clause (*c*) of sub-section (*2*) of section 14."

16. Amendment of section 30, Act XI of 1922.—In section 30 of the principal Act,—

(*a*) in sub-section (*1*), after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that no appeal shall lie under this section against an order passed by an Inspecting Assistant Commissioner, when exercising the powers of the Income-tax Officer in pursuance of a direction given by the Commissioner under sub-section (*5*) of section 5.";

(*b*) in sub-section (*1A*), the brackets, figures, letters and word "(*3A*)" and "or (*3C*)" shall be omitted.

17. Amendment of section 33, Act XI of 1922.—In section 33 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Any assessee objecting to any such order as is referred to in sub-section (*1*) of section 30, passed by an Inspecting Assistant Commissioner when exercising the powers of an Income-tax

Officer, may appeal to the Appellate Tribunal within the time specified in sub-section (*2*) of that section, and the provisions of sections 30 and 31 shall, so far as may be, apply to such appeal as they apply to an appeal to the Appellate Assistant Commissioner from an order of the Income-tax Officer."

18. Amendment of section 33A, Act XI of 1922.—In sub-section (*2*) of section 33A of the principal Act, after the words "made within one year from the date of the order" the words and brackets "(or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period)" shall be inserted.

19. Amendment of section 34, Act XI of 1922.—In the second proviso to sub-section (*3*) of section 34 of the principal Act, for the words "in pursuance of", the words "to an assessment or re-assessment made on the assessee or any other person in consequence of or to give effect to any finding or direction contained in" shall be substituted.

20. Amendment of section 35, Act XI of 1922.—In section 35 of the principal Act, after sub-section (*4*), the following sub-sections shall be inserted, namely:—

"(*5*) Where in respect of any completed assessment of a partner in a firm it is found on the assessment or re-assessment of the firm or on any reduction or enhancement made in the income of the firm under section 31, section 33, section 33A, section 33B, section 66 or section 66A that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner or, if included, is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (*1*) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the firm.

(*6*) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or any other proceeding, or where any excess profits tax or business profits tax has been assessed after the completion of the corresponding assessment for income-tax [whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1952], and in consequence thereof it is necessary to re-compute the total income of the assessee chargeable to income-tax, such recomputation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (*1*) shall apply accordingly, the priod of four years referred to in that sub-section being computed from the date of the order modifying the assessment of such excess profits tax or business profits tax.

Explanation.—For the purposes of sub-section (6), where the assessee is a firm, the provisions of sub-section (*5*) shall also apply as they apply to the rectification of the assessment of the partners of the firm."

21. Amendment of section 37, Act XI of 1922.—Section 37 of the principal Act shall be numbered as sub-section (*1*) of that section, and after sub-section (*1*) as so numbered, the following sub-section shall be inserted, namely:—

"(*2*) Any authority referred to in sub-section (*1*) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act"

22. Amendment of section 46, Act XI of 1922.—In sub-section (*7*) of section 46 of the principal Act, for the proviso, the following provisos and the *Explanation* shall be substituted, namely:—

"Provided that the period of one year herein referred to shall—

(*i*) where an assessee has been treated as not being in default under section 45 as long as his appeal is undisposed of, be reckoned from the date on which the appeal is disposed of;

(*ii*) where recovery proceedings in any case have been stayed by any order of a court, be reckoned from the date from which the order is withdrawn;

(*iii*) where the date of payment of tax has been extended by an income-tax authority, be reckoned from the date up to which the time for payment had been extended;

(*iv*) where the sum payable is allowed to be paid by instalments, from the date on which the last of such instalments was due:

Provided further that nothing in the foregoing proviso shall have the effect of reducing the period within which proceedings for recovery can be commenced, namely, after the expiration of one year from the last day of the financial year in which the demand is made.

Explanation.—A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to, and for the removal of doubts it is hereby declared that the several modes of recovery specified in this section are neither mutually exclusive, nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and it shall be lawful for the Income-tax Officer, if for any special reasons to be recorded he so thinks fit, to have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode."

23. Insertion of new section 46A in Act XI of 1922.—After section 46 of the principal Act, the following section shall be inserted, namely:—

"46A. *Persons leaving India to obtain tax clearance certificates.*—(*1*) Subject to such exceptions as may be made by the Central Government, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may

be appointed by the Central Government in this behalf (hereinafter in this section referred to as the 'competent authority') a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person:

Provided that if the competent authority is satisfied that such person intends to return to India, he may issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate.

(*2*) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside the territory, allows any person to whom sub-section (*1*) applies, to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the amount of tax, if any, which is or may be payable by such person, and shall also be punishable with fine which may extend to two thousand rupees.

Explanation.—For the purposes of the sub-section the expressions 'owner' and 'charterer' include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

(*3*) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (*2*), the owner or charterer, as the case may be, shall be deemed to be an assessee in default within the meaning of sub-section (*1*) of section 46.

(*4*) The Central Government may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section."

24. Amendment of section 49B, Act XI of 1922.—Section 49B of the principal Act shall be numbered as sub-section (*1*) thereof, and after sub-section (*1*) as so numbered, the following sub-section shall be inserted, namely:—

"(*2*) For the purposes of sub-section (*1*), income-tax shall be deemed to include agricultural income-tax assessed on a company by any State Government other than the Government of Jammu and Kashmir, and where any shareholder proves that the company has been so assessed to agricultural income-tax, he shall be entitled to the reduction from the tax payable by him under this Act of a sum equal to—

(*a*) the appropriate agricultural income-tax (reduced by the amount of refund, if any, allowed to him by the State Government), or

(*b*) the appropriate Indian income-tax on the amount of the dividend which has not been increased under sub-section (*2*) of section 16,

whichever is the less.

Explanation.—In this sub-section,—

(*a*) 'appropriate agricultural income-tax' means such proportion of the agricultural income-tax as the amount of dividend which has not been increased under sub-section (*2*) of section 16 bears to the total profits of the company assessed to agricultural income-tax; and

(*b*) 'appropriate Indian income-tax' means such proportion of the income-tax payable by the shareholder under this Act as the amount of dividend which has not been increased under sub-section (*2*) of section 16 bears to the total income of the shareholder."

25. Amendment of section 49D, Act XI of 1922.—For section 49D of the principal Act, the following section shall be substituted, namely:—

"49D. *Relief in respect of incomes accruing or arising outside the taxable territories.*—(*1*) If any person who is resident in the taxable territories in any year proves that, in respect of his income which accrues or arises during that year without the taxable territories (and which is not deemed to accrue or arise in the taxable territories), he has paid in any country, with which there is no reciprocal arrangement for relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower.

(*2*) The Central Government may, by notification in the Official Gazette, declare that the provisions of sub-section (*1*) shall also apply in relation to any such income accruing or arising in the United Kingdom and chargeable under this Act for the year ending on the 31st day of March, 1950, or for the year ending on the 31st day of March, 1951 or for the year ending on the 31st day of March, 1952.

Explanation.—In this section,—

(*i*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;

(*ii*) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the other provisions of this Act but before deduction of any relief due under this section, by the total income;

(*iii*) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws of the said country after deduction of all reliefs due, divided by the whole amount of the income assessed in the said country."

26. Amendment of section 49E, Act XI of 1922.—In section 49E of the principal Act, for the words "against the tax" the words "against the tax, interest or penalty" shall be substituted.

27. Amendment of section 54, Act XI of 1922.—In sub-section (*3*) of section 54 of the principal Act,—

(*i*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) of any such particulars in connection with a prosecution under the Indian Penal Code (Act XLV of 1860) or under this Act, in respect of any matter arising in the course of the execution of this Act, or

(*b*) of any such particulars to any person acting in the execution of this Act or of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the Taxation on Income (Investigation Commission) Act, 1947,"; or

(*ii*) in clause (*d*), after the word "Government" the words "or any Income-tax authority" shall be inserted and after the words "under this Act", the words "or under any other law for the time being in force authorising any Income-tax authority to exercise any powers thereunder" shall be inserted;

(*iii*) in clause (*gg*), the words "in connection with income-tax proceedings" shall be omitted and for the words "registered accountant" the words "chartered accountant" shall be substituted.

28. Amendment of section 58C, Act XI of 1922.—In sub-section (*1*) of section 58C of the principal Act,—

(*i*) to clause (*d*), the following proviso shall be added, namely:—

"Provided that the fund may consist also of the accumulated balance due to an employee who has ceased to be an employee and of interest (simple and compound) in respect thereof where such balance is retained in the fund in accordance with the provisions of clause (*g*).";

(*ii*) in clause (*g*), after the words "maintaining the fund" the words "unless at the request of the employee made in writing, the trustees of the fund consent to retain the whole or any part of the accumulated balance due to the employee in the fund to be drawn by him at any time on demand" shall be inserted.

29. Amendment of section 59, Act XI of 1922.—In sub-section (*2*) of section 59 of the principal Act, for clauses (*c*) and (*d*), the following clause shall be substituted, namely:—

"(*c*) prescribe the procedure for giving effect to the terms of any agreement for the avoidance of double taxation on income which may be entered into by the Central Government under section 49AA;".

30. Amendment of section 66A, Act XI of 1922.—In sub-section (*1*) of section 66A of the principal Act, for the words, brackets and figures "and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908), shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force", the following shall be substituted, namely:—

and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges:

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then

be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it."

31. **Substitution of new section for section 67, Act XI of 1922.**—For section 67 of the principl Act, the following section shall be substituted, namely:—

"67. *Bar to legal proceedings.*—(*1*) No suit or other legal proceeding shall lie in any civil court—

(*a*) to set aside or modify any assessment under this Act, or

(*b*) for the grant of any relief which will have the effect of preventing the commencement or continuance of any assessment proceeding against any person under this Act.

(*2*) No prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act."

32. **Amendment of the Schedule, Act XI of 1922.**—(*1*) In the Schedule to the principal Act,—

(*a*) for the words "Superintendent of Insurance", wherever they occur, the words "Controller of Insurance" shall be substituted;

(*b*) in rule 2,—

(*i*) in clause (b), for the words "actuarial valuation made for the last inter-valuation period", the words "actuarial valuation made in accordance with the Insurance Act, 1938 (IV of 1938), in respect of the last inter-valuation period" shall be substituted;

(*ii*) in clause (*d*) of the proviso, for the figures "12" the figures "15" shall be substituted;

(*c*) in clause (*a*) of rule 3, for the words "one-half" the words "four-fifths" shall be substituted, and in the second proviso for the words "one-half of such amount" the words and brackets "that proportion of such amount (one-half or four-fifths, as the case may be)" shall be substituted;

(*d*) for rule 8, the following rule shall be substituted, namely:—

"8. The profits and gains of the branches in the taxable territories of a person not resident in the taxable territories and carrying on any business of insurance, may, in the absence of more reliable data be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from the taxable territories bears to his total premium income.

For the purposes of this rule, the world income in relation to life insurance business of a person not resident in the taxable territories shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in the taxable territories."

(*2*) The amendments made by sub-section (*1*) shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st day of March, 1951, whether such assessment has or has not been made before the commencement of this Act and where

any such assessment has been made before such commencement it shall be lawful for the Income-tax Officer to revise it, wherever necessary, to give effect to such amendments.

33. **Application of Act.**—Subject to any special provision made in this behalf in this Act, the amendments made by this Act in the principal Act shall have effect in relation to all assessments for the year ending on the 31st day of March, 1953 and subsequent years.

34. **Validity of certain notices and assessments.**—For the removal of doubts it is hereby declared that the provisions of sub-sections (*1*), (*2*) and (*3*) of section 34 of the principal Act shall apply and shall be deemed always to have applied to any assessment or re-assessment for any year ending before the 1st day of April, 1948, and any notice issued in accordance with sub-section (*1*) or any assessment completed in pursuance of such notice within the time specified in sub-section (*3*), whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1952, shall, notwithstanding any judgment or order of any court, Appellate Tribunal of Income-tax authority to the contrary, be deemed to have been validly issued or completed, as the case may be, and no such notice, assessment or re-assessment shall be called in question on the ground merely that the provisions of section 34 did not apply or purport to apply in respect of an assessment or re-assessment for any year prior to the 1st day of April, 1948.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is—

(a) to give effect to some of the urgent, clarificatory and beneficial provisions contained in the comprehensive Income-tax Amendment Bill (Bill No. 56 of 1951), which was introduced in June last year and which has now lapsed;

(*b*) to give effect to some further concessions to Industries;

(c) to make certain amendments which have become necessary owing to some recent judicial decisions, and in the light of the experience gained in the working of the Act; and

(d) to make certain amendments so as to bring the law in line with the practice and with the administrative changes already made or under contemplation.

2. A comprehensive Income-tax (Amendment) Bill including, amongst others, such recommendations of the Income-tax Investigation Commission as had been accepted by Government was introduced in June last year, but it could not be taken up for consideration in the subsequent sessions of Parliament owing to pressure of other urgent business. That Bill has now lapsed, and in any case its provisions would have required detailed examination in the light of the comments received from various quarters. Meanwhile, it has become necessary to introduce a shorter Bill containing the amendments described above.

3. The notes on clauses explain the object underlying each of the amendments contained in the Bill.

C. D. DESHMUKH.

NEW DELHI;
The 13th May, 1952.

M. N. KAUL, Secy.

The following Bill was introduced in the House of the People on 16th May, 1952:—

BILL No. 33 OF 1952.

A Bill to regulate the profession of notaries.

BE it enacted by Parliament as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Notaries Act, 1952.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise —

(*a*) "India" means the territories to which this Act extends;

(*b*) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded;

(*c*) "legal practitioner" means an advocate, vakil or attorney of the Supreme Court or of any High Court, or a pleader practising in any subordinate civil court;

(*d*) "notary" means a person appointed as such under this Act:

Provided that for a period of one year from the commencement of this Act it shall include also a person who, before such commencement, was appointed a notary public either under the Negotiable Instruments Act, 1881 (XXVI of 1881), or by the Master of Faculties in England, and is, immediately before such commencement, in practice in any part of India;

(*e*) "prescribed" means prescribed by rules made under this Act;

(*f*) "Register" means a Register of Notaries maintained by the Government under section 4;

(*g*) "State Government", in relation to a Part C State, means the Lieutenant Governor, or, as the case may be, the Chief Commissioner.

3. Power to appoint notaries.—The Central Government, for the whole or any part of India, and any State Government, for the whole or any part of the State, may, on such conditions, if any, as it thinks fit, appoint as notaries any legal practitioners or other persons who, in its opinion, are duly qualified to discharge the functions of notaries under this Act.

4. Registers.—(*1*) The Central Government and every State Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by the Government and entitled to practise as such under this Act.

(2) Every such Register shall include the following particulars about every notary whose name is entered therein, namely:—

(a) his full name, date of birth, residential and professional address;

(b) the date on which his name is entered in the Register;

(c) his qualifications; and

(d) any other particulars which may be prescribed.

5. Entry of names in the Register and issue or renewal of certificates of practice.—(1) Every notary who intends to practise as such shall, on application to the Government appointing him and payment of the prescribed fee, if any, be entitled—

(a) to have his name entered in the Register maintained by that Government under section 4, and

(b) to a certificate authorising him to practise for a period of three years from the date on which the certificate is issued to him.

(2) Every such notary who wishes to continue to practise after the expiry of the period for which his certificate of practice has been issued under this section shall, on application made to the Government appointing him and payment of the prescribed fee, if any, be entitled to have his certificate of practice renewed for three years at a time.

6. Annual publication of lists of notaries.—The Central Government and every State Government shall, during the month of January each year, publish in the Official Gazette a list of notaries appointed by that Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

7. Seal of notaries.—Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

8. Functions of notaries.—(1) A notary may do all or any of the following acts by virtue of his office, namely:—

(a) verify, authenticate, certify or attest the execution of any instrument;

(b) present any promissory note, hundi or bill of exchange for acceptance or payment;

(c) note or protest the dishonour by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881 (XXVI of 1881), or serve notice of such note or protest;

(d) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;

(e) administer oath to, or take affidavit from, any person;

(f) prepare bottomry and respondentia bonds, charter parties and other mercantile documents;

(g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside India in such form and language as may conform to the law of the place where such deed is intended to operate;

(*h*) translate, and verify the translation of, any document from one language into another;

(*i*) any other act which may be prescribed:

Provided that no notary shall do any act which he is not, under the terms of his appointment, authorised to do.

(*2*) No act specified in sub-section (*1*) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

9. Bar of practice without certificate.—(*1*) Subject to the provisions of this section, no person shall practise as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5:

Provided that the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary shall not be deemed to be a notarial act within the meaning of this sub-section.

(*2*) Nothing contained in sub-section (*1*) shall, until the expiry of one year from the commencement of this Act, apply to any such person as is referred to in the proviso to clause (*d*) of section 2.

10. Removal of names from Register.—The Government appointing any notary may, by order, remove from the Register maintained by it under section 4 the name of the notary if he—

(*a*) makes a request to that effect; or

(*b*) has not paid any prescribed fee required to be paid by him; or

(*c*) is an undischarged insolvent; or

(*d*) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government, renders him unfit to practise as a notary.

11. Construction of references to notaries public in other laws.—Any reference to a notary public in any other law shall be construed as a reference to a notary entitled to practise under this Act.

12. Penalty for falsely representing to be a notary, etc.—Any person who—

(*a*) falsely represents that he is a notary without being appointed as such, or

(*b*) practises as a notary or does any notarial act in contravention of section 9,

shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

13. Reciprocal arrangements for recognition of notarial acts done by foreign notaries.—If the Central Government is satisfied that by the law or practice of any country or place outside India, the notarial acts done by notaries within India are recognised for all or any limited purposes in that country or place, the Central Government may, by notification in the Official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognised within India for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.

14. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

(*a*) the form and manner in which applications for appointment as notary may be made and the disposal of such applications;

(*b*) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish;

(*c*) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practice, and exemption from such fees in specified classes of cases;

(*d*) the fees payable to a notary for doing any notarial act;

(*e*) the form of Registers and the particulars to be entered therein;

(*f*) the form and design of the seal of a notary;

(*g*) the manner in which inquiries into allegations of professional or other misconduct of notaries may be made;

(*h*) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions;

(*i*) any other matter which has to be, or may be, prescribed.

15. Repeal.—Chapter XVII of the Negotiable Instruments Act, 1881 (XXVI of 1881), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

Under section 138 of the Negotiable Instruments Act, 1881, the Government of India have the power to appoint notaries public, but only for the limited purpose of performing functions under that Act. By virtue of an ancient English Statute, the Master of Faculties in England used to appoint notaries public in India for performing all recognised notarial functions, but it is no longer appropriate that persons in this country who wish to function as notaries should derive their authority from an institution in the United Kingdom.

The object of the present Bill is to empower the Central and State Governments to appoint notaries, not only for the limited purposes of the Negotiable Instruments Act, but generally for all recognised notarial purposes, and to regulate the profession of such notaries.

A Bill on the subject was accordingly introduced in the provisional Parliament on the 19th April, 1951 and referred to a Select Committee on the 18th August, 1951. The report of the Select Committee was presented on the 4th October, 1951, but the Bill could not be proceeded with in the last Session of Parliament for want of time and, therefore, lapsed. Apart from one or two minor drafting changes, the present Bill follows closely the Notaries Bill, 1951, as amended by the Select Committee.

C. C. BISWAS.

NEW DELHI;
The 15th May, 1952.

M. N. KAUL, Sec

egistered No. C207

The Calcutta Gazette

THURSDAY, SEPTEMBER 4, 1952

ART VI—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

GOVERNMENT OF WEST BENGAL.

Legislative Department.

NOTIFICATION.

No. 1630L.—26th August, 1952.—The following Bill which was introced in the House of the People and in regard to which a motion was rried on the 30th July, 1952, that the Bill be circulated for the purpose eliciting opinion thereon by the end of November, 1952, is hereby pubshed for general information together with the Statement of Objects and easons annexed thereto. Written expressions of opinion by any person public body should be sent so as to reach the Education Department of e Government of West Bengal not later than the 15th November, 1952. ny opinion which is submitted direct to the Parliament Secretariat or e Ministry of Law of the Government of India, or to any other Ministry the Government of India or to any other Department of the State overnment will not be accepted for consideration:—

Bill No. 85 of 1952.

THE MUSLIM WAKFS BILL.

[AS INTRODUCED IN THE HOUSE OF THE PEOPLE.]

A

BILL

to provide for the better governance and administration of Muslim Wakfs and the supervision of Mutawallis' management of them, in India.

BE it enacted by Parliament as follows:—

CHAPTER I.

PRELIMINARY.

1. **Short title, extent and commencement.**—(*1*) This Act shall be called e Muslim Wakfs Act, 19 .

(*2*) It extends to the whole of India except the State of Jammu and ashmir.

(*3*) This section and sections 2 to 4 shall come into force at once. The st of the Act shall not come into force until such date as the Government ay by notification in the Official Gazette, appoint in this behalf.

2. Application of the Act.—This Act shall apply to all Wakfs wheth created before or after the commencement of this Act and situated in a of the following States:—

Bombay, Madhya Pradesh, Madras, Orissa, Punjab, West Beng Hyderabad, Madhya Bharat, Mysore, Patiala and East Punj States Union, Rajasthan, Saurashtra and Bhopal,

and Chapter III of the Act shall further apply to all Wakfs situated Bihar, Uttar Pradesh, Ajmer and Delhi:

Provided that the Union Government may by notification in the Offici Gazette apply the Act to Wakfs situated in any other States or the who of the Act to the Wakfs situated in Bihar, Uttar Pradesh, Ajmer or Delhi

Provided further that the Union Government on the recommendatic of a State Government may by notification in the Official Gazette exem any Wakfs from the operation of this Act.

3. Definitions.—In this Act unless there is anything repugnant in th subject or context,—

(*a*) 'Alim' means a person who is a diploma holder of a 'madar Arabia' as defined in clause (7) of this section;

(*b*) 'beneficiary' means a person or object for whose benefit a wak is created and includes religious, pious and charitable objects and any other objects of public utility established for the benef of the Muslim community;

(*c*) 'benefit' does not include any benefit which a mutawalli is entitle to claim solely by reason of his being such mutawalli;

(*d*) 'Board' means Board of Muslim Wakfs constituted under this Act

(*e*) 'court' means unless otherwise stated either expressly or by impli cation, the court of the District Judge, or any court empowere by the Government to exercise jurisdiction under this Act;

(*f*) 'family' includes:—

(*a*) descendants,

(*b*) parents and grand parents,

(*c*) wife or husband, and

(*d*) persons related through any ancestor male or female, who liv with and are maintained by the wakf;

(*g*) 'Jamiat-Ulema' means Jamiat-Ulamai-Hind which has got it head-office at Delhi and includes all its branches in the variou States of India;

(*h*) 'madarsa Arabia' includes any educational institution wherein-

(*i*) the Nizami Course or Shia Theological Course or Orienta Course of studies is prescribed for grant of degrees:

Provided that a madarsa in which Shia Theological Course is pres cribed shall be called 'Shia madarsa Arabia' and all the res shall be called 'Sunni madarsa Arabia',

(*ii*) there are at least two teachers to teach Arabic, and

(*iii*) the annual budget, at least for the previous two years ha amounted to a sum of five thousand rupees;

(*i*) 'mutawalli' means a manager of a wakf or endowment and include an *Amin*, a *Sajjadanishin*, a *Mujawar*, a *Khadim*, a *Nai* Mutawalli, a committee of management and save, as otherwis provided in this Act any person who is for the time being in charge of, or is administering, any endowment as such;

(*j*) 'net income' means the total income minus land revenue, and other cesses payable to the Government and local bodies;

(*k*) 'person interested in wakf' means any person who is entitled to receive any pecuniary or other benefit from the wakf and includes,—

(*i*) any person who has a right to worship or to perform any religious rite in a mosque, *idgah*, *imambara*, *dargah*, *khanqah*, *maqbara*, graveyard or any other religious institution connected with the wakf or to participate in any religious or charitable institution under the wakf;

(*ii*) the "wakif" and any descendant of the wakif, and the mutwalli;

(*l*) 'prescribed' means prescribed by rules made by the Government and includes bye-laws made by the Board under this Act;

(*m*) 'property' includes Government security bonds, shares in firms, and companies, stocks, debentures, and other securities and instruments;

(*n*) 'Shia Conference' means all India Shia Conference which has its head-office at Lucknow and includes all its branches in the various States of India;

(*o*) 'Shia Political Conference' means All India Shia Political Conference and includes all its branches in the various States of India.

CHAPTER II.

SURVEY OF WAKFS AND BOARDS OF WAKFS.

4. Survey of wakfs.—(*1*) Within three months of the commencement of this Act the Government of each of the States to which this Act applies shall by notification in the Official Gazette appoint for each district a Gazetted Officer, either by name or by official designation, for the purpose of making a survey of all wakfs. Such Officer shall be called "The Commissioner of Wakfs".

(*2*) The State Government may, from time to time when necessary, cancel any appointment made under sub-section (*1*) or make a new appointment.

(*3*) "The Commissioner of Wakfs" shall, after making such enquiries as he may consider necessary, ascertain and determine,—

(*a*) the number of all Muslim wakfs showing Shia or Sunni wakfs respectively:

Provided that when there is a dispute whether a particular wakf is a Shia wakf or a Sunni wakf and there are clear indications as to the sect to which it pertains in the deed of wakf, such dispute shall be decided on this basis;

(*b*) the nature of each wakf,

(*c*) the gross income of property comprised in the wakf,

(*d*) the amount of Government Land Revenue cesses and taxes payable in respect of wakf property,

(*e*) expenses incurred in the realization of the income and the pay of the Mutawalli of each wakf.

(*4*) In making such enquiries as aforesaid the Commissioner of Wakfs shall exercise all the powers of a civil court for summoning and examining witnesses and documents, making local inspections, appointing commissioners for examination of witnesses, examining of accounts and making local investigations.

(5) The Commissioner of Wakfs shall submit his report of enquiry to the Government.

(6) The total cost of carrying out the provisions of this section and section 5 shall be borne by the Mutawallis of all wakfs in proportion to the income of the property of such wakf situated in the State to be assessed by the Chief Commissioner of Wakfs appointed under section 5.

(7) Notwithstanding anything contained in the deed or instrument of creating any wakf any Mutawalli may pay from the income of the wakf any sum due from him under sub-section (6).

(8) Any sum due from a Mutawalli under sub-section (6) may, on a certificate issued by the Government be recovered in the manner provided by law for recovery of an arrear of Land Revenue.

5. Appointment of Additional Commissioners of Wakfs.—(1) In addition to the Commissioner of Wakfs, appointed under section 4, the Government may, by notification in the Official Gazette appoint as many "Additional Commissioners of Wakfs" in each State as it may think necessary. The duties and powers of the Additional Commissioners of Wakfs shall be the same as those of the Commissioners of Wakfs under section 4.

(2) One of such Additional Commissioners of Wakf shall be appointed the 'Chief State Commissioner of Wakfs' for the purpose of sub-section (3)

(3) The Chief State Commissioner of Wakfs shall apportion the work of survey between the Additional Commissioners of Wakfs in such manner as he may think proper, and shall direct by whom any enquiry made or report should be submitted and such an enquiry made or a report submitted by an Additional Commissioner of Wakf shall, for the purposes of this Act, be deemed to be the inquiry or report, as the case may be of the Commissioner of Wakfs, under sub-section (5) of section 4:

Provided that a survey made in the State before the commencement of the Act shall be deemed to have been made under the Act.

6. Commissioner's report.—(1) The Government shall forward a copy of the report of the Commissioner of Wakfs to the Board. The Board shall as soon as possible notify in the Official Gazette the wakfs, to which, according to such reports the provisions of this Act apply.

(2) The Mutawalli of a Wakf or any person interested in a wakf or the Board may bring a suit in a Civil Court of competent jurisdiction for a declaration that any transaction held by the Commissioner of Wakfs to be a wakf, is not a wakf, or any transaction held or assumed by him not to be a wakf, is a wakf or that wakf held by him to pertain to a particular sect does not belong to that sect:

Provided that no such suit shall be instituted by the Board after more than two years of the receipt of the report of the Commissioner of Wakfs and by a Mutawalli or person interested in a wakf after more than two years after notification referred to in sub-section (1):

Provided further that no proceedings under this Act in respect of any wakf shall be stayed or suspended merely by reason of the pendency of any such suit or of any appeal arising out of any such suit.

(3) Subject to the final result of any suit instituted under sub-section (2) the report of the Commissioner of Wakfs shall be final and conclusive.

(4) The Commissioner of Wakfs shall not be made a defendant to any suit under sub-section (2) and no suit shall be instituted against him for anything done by him in good faith in due discharge of his duties under the Act.

7. Establishment of Board.—(1) Each State Government shall establish within its territory a 'Board of Muslim Wakfs'.

(2) Each such Board shall be a body corporate, and shall have perpetual succession and a common seal, with power to acquire and hold property and to transfer any such property subject to the conditions and restrictions prescribed and shall by its said name, sue and be sued.

8. **Constitution of the Board.**—"The Board" shall consist of,—

(*a*) four members to be elected in the manner prescribed by Muslim members of the respective State Legislatures,

(*b*) four members to be elected in the manner prescribed by the Muslim members of the district boards, Municipal Boards, Town area and Notified area Committees of the respective States,

(*c*) four members to be elected in the manner prescribed by the Jamiat-Ulema and the teachers of the Sunni Madarsas Arabia,

(*d*) two members to be elected in the manner prescribed by Shia Political Conference and Shia Conference and the teachers of the Shia Madarsas Arabia,

(*e*) one Mutawalli to be co-opted by the Sunni members of the Board and one Mutawalli to be co-opted by the Shia members of the Board,

(*f*) the President to be elected by the members of the Board if he is not one of the above seventeen members:

Provided that no Mutawalli of a Wakf shall be entitled to be elected in any of the categories save as provided in clause (*e*):

Provided further that where any one of the bodies referred to in sub-clauses (*c*) and (*d*) does not exist, the right of election shall be vested in the other body or bodies mentioned in each sub-clause respectively which is or are existing at that time.

9. **Election of Members.**—(*1*) If at any election of the Board no Muslim member is available under clauses (*a*) and (*b*) of section 8, the requisite number of such members shall be elected by the bodies referred to in sub-clauses (*c*) and (*d*) to the extent of one half each and on their failure to do so within the time fixed by the State Government, the deficiency shall be made up by nomination by the State Government.

(*2*) If the bodies referred to in clauses (*c*) and (*d*) fail to return the requisite number of members within the time as may be fixed by the State Government the deficiency shall be made up by nomination by the State Government.

10. **Disqualification of a member.**—A person shall not be eligible for appointment or election as a member, if such person—

(*a*) is not a Muslim;

(*b*) is less than twenty years of age;

(*c*) is of unsound mind; and stands so declared by a competent court;

(*d*) has applied for being adjudged an insolvent or is an undischarged insolvent;

(*e*) has been convicted of any offence under this Act;

(*f*) has been convicted of any such offence or is subjected by a criminal court to any such order as implies moral turpitude; and

(*g*) has on any previous occasion, been removed from office or by order of a competent court from any position of trust either for mismanagement or for corruption.

11. Term of Membership.—The members of the Board shall hold office for five years:

Provided that an elected or co-opted member shall, notwithstanding the expiration of his term of office, continue to hold office until the vacancy caused by expiration of the said term has been filled.

12. Situation of Office.—The office of the Board shall be located at such a place as is determined by the State Government.

13. Quorum.—The quorum for a meeting of the Board shall be seven.

14. Decision.—The decision of the Central Board shall be by a majority of its members present and voting. In case of equal division the President shall have a second or a casting vote:

Provided that the question of the use of surplus fund of Sunni or Shia Wakfs or the income of wakfs in accordance with the cypres doctrine and in case of those wakfs the objects of which are not evident from any written instruments or in cases in which the objects for which they were created have ceased to exist, shall be determined by the Board, by the votes, of only Sunni or Shia members present at the voting in respect of Sunni or Shia Wakfs respectively.

15. Meetings of the Board.—(*1*) The Board shall meet for the transaction of the business at least once in every three months and as often as is necessary to meet for the transaction of the business.

(*2*) Every meeting of the Board shall be convened by the Secretary, under the direction of the President and at least three weeks' notice shall be given to the members.

16. Special Meetings of the Board.—The special meetings of the Board shall be called by the President on the receipt of a requisition signed by not less than six members and specifying the business to be transacted at such meeting:

Provided that if the President fails to call such meeting, within one month after the receipt of such a requisition, the meeting shall be called by the members who have signed the requisition.

17. President and Secretary.—(*1*) Each Board shall have a President and a Secretary who shall be Muslims:

Provided that no Mutawalli of a wakf or a Government Treasurer or a whole-time servant of the Government or the servant of any wakf administration, shall be elected as the President.

(*2*) Immediately after the formation of the Board and subsequently whenever it becomes necessary by reason of an existing or anticipated vacancy or otherwise to appoint a President, the Board shall elect one of its members or any other person as its President. The President shall be honorary and shall hold office for a term of five years, but if he is a member of the Board his term shall expire on the expiry of his term as a member.

(*3*) The Board shall appoint a Government Gazetted Officer as its whole-time Secretary on such terms or allowances and other conditions of service as may be prescribed:

Provided that if a Government Gazetted Officer is not available the Board may appoint another person.

18. **Staff of Board.**—(*1*) The Board may appoint such officers and staff including superintendents of wakfs, inspectors, auditors, and the like, on such salaries, allowances and conditions of service as may be necessary for the purpose of this Act and for such a period as it may think fit.

(*2*) The President, Secretary and all other persons appointed under sub-section (*1*) shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860.

(*3*) The Board may fine, suspend, dismiss or remove a Secretary who is not a Government Gazetted Officer, or any other person appointed by it under sub-section (*1*):

Provided that the Secretary who is a Government Gazetted Officer, shall be liable to removal by the State Government on the recommendation of the Board.

19. **Functions of the Board.**—(*1*) The General Superintendence of all wakfs to which this Act applies shall vest in the Board. The Board shall do all things reasonable and necessary to ensure that wakfs or endowments under its superintendence are properly maintained, controlled and administered and duly appropriated to the purposes for which they were founded or for which they exist.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*) the powers and duties of the Board shall be,—

(*a*) to complete and maintain an authentic record of rights containing information relating to the origin, income, object and beneficiaries of every wakf in each district,

(*b*) to prepare and settle its own budget,

(*c*) to settle and pass budget submitted by the Mutawallis, to the Board:

Provided it is in consonance with the wishes of the wakf and is in accordance with the terms of the deed of wakf, or that of a resolution of the Board, if any,

(*d*) to appoint and remove Mutawallis according to the provisions of this Act,

(*e*) to institute and defend suits and proceedings in a court of law relating to,—

(*i*) administration of wakfs,

(*ii*) taking of accounts,

(*iii*) appointment and removal of Mutawallis in accordance with the deed of wakf,

(*iv*) putting the Mutawallis in possession of a wakf or removing him from that possession,

(*v*) settlement or modifications of any scheme or management,

(*f*) to sanction the institution of suits under section 92 of the Code of Civil Procedure, 1908, relating to wakfs, to which this Act applies,

(*g*) to take measures for the recovery of lost properties of any wakf,

(*h*) to settle schemes of management for a wakf or application of surplus fund of a wakf or income of wakf properties of a wakf in accordance with the cypres doctrine in case of those wakfs, the objects of which are not evident from any written instrument or in cases in which the object for which they were created have ceased to exist,

(*i*) to enter upon and inspect wakf property,

(*j*) to cause inspection to be made of the property and the office of a wakf including accounts, and to authorise the Secretary, or any of its members, officers, or servants for that purpose,

(*k*) to investigate into the nature and extent of wakfs and properties of the wakf and call from time to time accounts and other returns and information from the Mutawallis and give directions for the proper administration of wakfs,

(*l*) to arrange for the auditing of accounts submitted by Mutawallis,

(*m*) to direct the deposit of surplus money in the hands of a Mutawalli in any approved bank or to utilize it according to the resolution of the Board,

(*n*) to administer the Wakf Fund,

(*o*) to keep regular account of receipts and disbursements and submit the same in the manner prescribed,

(*p*) to institute when necessary an enquiry relating to the administration of the wakf:

Provided that in the appointment of Mutawallis or making any other arrangement for the management of wakf property, the Board shall be guided as far as possible by the directions of wakf, if any,

(*q*) to sanction leases of properties for more than three years or mortgage or exchange properties according to the provisions of the Muslim Law:

Provided that at least three-fourths of the members of the Board vote in favour of such a transaction,

(*r*) to furnish to the State Government or to any such officer as the State Government may appoint in this behalf, any statement, report, return or other documents or any other information which the State Government or any such officer, as the case may be, may require from time to time,

(*s*) to direct the Mutawalli to institute and defend suits in courts of law, and take necessary action in respect of wakf property:

Provided that in case of failure of Mutawalli to do so, or in case when there is no Mutawalli or when the office of Mutawalli is disputed, the Board shall do all these things itself and shall incur the necessary expenses from the Wakf Fund,

(*t*) to realise, in the prescribed manner, and subject to prescribed conditions, out of the income of any wakf, the costs incurred by the Board in any of the matters mentioned in clause (*s*), in respect of such wakf,

(*u*) to permit a Mutawalli to retire from his office and in case the Mutawalli has power to appoint his successor, to permit him to make appointment in his life time.

20. Delegation of Powers.—The Board may delegate any of its powers and duties under this Act to the President or Secretary or to any one or more of its members and may likewise withdraw such delegation.

21. Establishment of Committees.—The Board whenever it considers necessary, may, establish either generally for a particular purpose or in any specific area or areas committees for the supervision of wakfs in that area. The constitution, functions and duties of such committees shall be determined from time to time by the Board:

Provided that it shall not be necessary for the members of such committees that they should be members of the Board also.

22. Removal of a member.—The State Government on a report by the Board may, by notification in the *Official Gazette*, remove any member from the Board if he—

(*a*) refuses to act or becomes incapable of acting as a member of the Board, or

(*b*) becomes subject to any disqualification mentioned in section 10,

(*c*) without excuse, sufficient in the opinion of the Board, is absent without the consent of the Board, for more than six consecutive meetings of the Board.

23. Resignation of a member.—A member of the Board may resign his office by giving notice in writing to the President and on such resignation being accepted by the Board, shall be deemed to have vacated his office.

24. Filling of a vacancy.—When a seat of a member becomes vacant by his removal, resignation or death, a new member shall be elected or co-opted as the case may be, in the manner provided in section 8 and shall hold office as long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred:

Provided that no act or order of the Board or its officer shall be deemed invalid by reason only that the member or members of the Board at the time of the performance of such an act or at the passing of such an order was less than the number provided in section 7.

25. Removal of President.—The State Government may remove the President if the President,—

(*a*) is or becomes subject to any disqualification specified in section 10,

(*b*) refuses to act or becomes incapable of acting, or acts in a manner which the State Government after hearing any explanation that he may offer, consider to be prejudicial to the interest of wakfs, or

(*c*) if he fails without excuse to attend three consecutive meetings of the Board.

26. Opinion of the Board.—The Mutawalli of any wakf governed by this Act may apply by petition to the Board for its opinion, advice or direction on any question affecting the management or administration of the property of such wakf and the Board shall give such opinion, advice or direction:

Provided that the Board shall not be bound to give such opinion, advice or direction on any question which is not in its opinion a fit question for summary disposal.

27. Inspection and copies of Records.—The Board may grant inspection and copies of its proceedings or other records in its custody on payment of such fees and subject to such conditions as may be prescribed by rules. All copies issued under this section shall be certified by the Secretary of the Board in the manner provided in section 76 of the Indian Evidence Act, 1872.

CHAPTER III

CENTRAL BOARD OF MUSLIM WAKFS.

28. Central Board of Muslim Wakfs.—(*1*) The Union Government shall establish in the Union of India a Central Board of Muslim Wakfs.

(*2*) The Central Board of Muslim Wakfs shall be a body corporate and shall have perpetual succession and a common seal, with power to acquire and hold property and to transfer any such property subject to the conditions and restrictions prescribed and shall by its said name sue and be sued.

29. Constitution of the Central Board.—The Central Board shall consist of—

(*a*) one member from each of the following States to be elected by the members of Board of Muslim Wakfs in that State:—

(1) Hyderabad, (2) Madhya Bharat, (3) Madhya Pradesh, (4) Rajasthan, (5) East Punjab, (6) Patiala and E. P. States, (7) Orissa and (8) Saurashtra;

(*b*) two members from each of the following 3 States to be elected by the members of the Board of Muslim Wakfs in each of the States one of them being a Shia and the other a Sunni:—

(1) West Bengal. (2) Bombay. (3) Madras;

(*c*) two members to be elected by the members of the two Boards established in U.P. under Muslim Wakf Act, 1936 (XIII of 1936). Each of the two Boards electing one member each separately;

(*d*) two members to be elected by the members of the two Boards established in Bihar under the Bihar Wakfs Act, 1948 (VIII of 1948). Each of the two Boards electing one member each separately;

(*e*) two members to be elected by the two Boards established in Delhi under the Delhi Muslim Wakfs Act, 1943, each of the two Boards electing one member each separately;

(*f*) one member to be elected by the members of the Board of Ajmer constituted under the Durgah Khwaja Sahib Act, 1936 (XXIII of 1936);

(*g*) four members to be co-opted by the elected members of the Board, one of them being a Shia and three of them being Sunni members;

(*h*) the President, if he is not one of the members:

Provided that in case where a Board has not been regularly constituted as mentioned in clauses (*a*) and (*b*), the Central Board shall nevertheless begin to function without a member from such a Board of the State, but the State Boards shall have the right of electing their representatives for the Central Board as soon as it is constituted.

30. Term of Membership.—The members of the Central Board shall hold office for a period of five years and in case of members elected by the State Boards the period of their membership of that Board or five years, whichever is less:

Provided that an elected or co-opted member shall notwithstanding the expiration of his term of office, continue to hold office until the vacancy caused by the expiration of the said term has been filled.

31. Situation of Office.—The office of the Central Board shall be located at Delhi:

Provided that the members of the Board shall have the power of changing the location of the office by passing a resolution to that effect by a majority of the total membership of the Board and a majority of not less than two-thirds of the members of the Board present and voting.

32. Quorum.—The quorum to constitute a meeting of the Central Board shall be seven, provided that the Board shall have power to change the number by means of Rules made in that behalf.

33. Decision.—The decision of the Central Board shall be by a majority of its members present and voting. In the case of an equality of votes, the President shall have and exercise a second or casting vote:

Provided that the question of the use of the surplus funds or the income of wakfs, in accordance with the cypres doctrine and in case of these wakfs the objects of which are not evident from any written instrument or in cases in which the objects for which they were created have ceased to exist, shall be determined by the Central Board by the votes of only Sunni or Shia members present at the meeting in respect of Sunni or Shia wakfs respectively.

34. Meetings of the Central Board.—(*1*) The Board shall meet for the transaction of business at least once in every year, and this meeting shall be termed the Annual meeting.

(*2*) The date of the meeting of the Board shall be fixed by the Secretary, under the directions of the President and at least one month's notice shall be given to the members in respect of the date so fixed:

Provided that the date of the first meeting of the Board after this Act comes into force shall be fixed by the Union Government by notification in the official Gazette and by sending information to the members.

(*3*) The President shall have power to summon special meetings of the Board for the transaction of the business which he considers necessary, or in pursuance of a resolution of the Board or on a requisition signed by not less than seven members, and specifying the business to be transacted at such a meeting. A notice of three weeks to the members shall be necessary for the holding of special meeting.

35. Staff.—(*1*) The Central Board shall have a President and a Secretary who shall be Muslims, provided that no Mutawalli of a wakf or a Government Treasurer or a whole-time servant of the Government or the servant of any wakf Administration shall be elected as the President,

(*2*) Immediately after the formation of the Central Board and subsequently whenever it becomes necessary by reasons of an existing or anticipated vacancy or otherwise to appoint a President, the Central Board shall elect one of its members or any other person as its President. The President shall be honorary and shall hold office for a term of five years but if he is a member of the Board his term shall expire on the expiry of his term as a member of the Board.

(*3*) The Central Board shall appoint one person qualified to carry on the work of the office of the Board as the Secretary. The Secretary shall be a salaried servant of the Board and shall hold office for a term of five years. He will be eligible for re-appointment after the expiry of his term. He will not be a member of the Board.

36. Staff of the Central Board.—The Central Board may appoint Secretary and such officers on staff on such salary and allowances and condition of service as may be necessary for carrying out their duties under the Act and for such period as they think fit.

37. Functions and Powers of the Central Board.—The functions and powers of the Central Board shall be—

(*1*) to lay down the principles for administration of wakfs;

(*2*) to co-ordinate the activities of the various Boards in the matter of administration of wakfs and for that purpose to receive annual reports from the various wakfs Boards situated within the Union of India including the wakfs Boards in U.P. and Bihar constituted under the various statutes and of Delhi and Ajmer constituted under the Central Acts and to give their opinion on such reports;

(*3*) to give their advice to the various Boards specially in case such advice is sought by those Boards;

(*4*) in case of persistent non-compliance with the advice of the Central Board by any Board of the State, the Central Board shall have the power to make a report to the Government of the State to take such action in respect of the Board as it may deem desirable.

38. Finance of the Central Board.—(*1*) The expenses of the office, officers and servants of the Central Board and the travelling and daily allowances of the co-opted members of the Central Board and of the President, if he is not a member of a State Board, shall be distributed equitably between the various State Boards, and in case of there being no agreement about it amongst the members of the Central Board, by the Central Union Government. The amounts so fixed shall be payable in advance every year.

(*2*) The travelling and daily allowances of the members of the Central Board shall be determined and paid by the various State Boards to which these members belong.

39. Power to make Rules.—(*1*) The Central Board may make rules not inconsistent with this Act for the purposes of carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power the Central Board shall have the power to make rules with respect of—

(*a*) procedure to be adopted at the annual meeting and the special meetings of the Central Board;

(*b*) quorum for meetings;

(*c*) preparation and preservation of the record of the resolutions and meetings of the Board;

(*d*) method to be adopted for the scrutiny of the Administration Reports of the various Boards, and the procedure for giving advice in respect of them;

(*e*) record of the advice tendered by the Central Board to various Boards of the State and steps taken in respect thereto.

CHAPTER IV.

REGISTRATION OF WAKFS.

40. Registration.—(*1*) Every wakf whether created before or after the commencement of this Act shall be registered at the office of the Board.

(2) The Mutawalli of every such wakf shall make an application for registration within three months of his entering into possession of the wakf property, or in the case of wakf existing at the time of formation of the first Board, within three months of the formation of such Board.

(3) Applications for registration may also be made by wakif or his descendants or a beneficiary of the wakf or any Muslim belonging to the sect to which the wakf belongs.

(4) An application under this section shall be accompanied by a true copy of the deed or deeds of wakf, together with a statement containing the following particulars as far as known to the applicant,—

(a) a description of the wakf properties sufficient for the identification thereof,

(b) the gross annual income from such properties,

(c) the amount of Government revenue, and cesses and of all rents and taxes payable in respect of the wakf properties,

(d) an estimate of expenses annually incurred in the realisation of the income of the wakf properties,

(e) the amount set apart under the wakf for—

(i) the salary of the Mutawalli and allowances to individuals;

(ii) purely religious purposes;

(iii) charitable purposes;

Provided that every such application shall be verified by the Mutawalli in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings.

(5) The Board may require the applicant to supply any further particulars or information that it may consider necessary.

(6) On receipt of an application for registration, the Board may, before registration of the wakf, make such enquiries as it thinks fit in respect of its genuineness and validity and the correctness of any particulars, in the statement filed with the application and when the application is made by any person holding possession of any property or properties belonging to the wakf, the Board shall give notice of the application to the person in possession and hear him, if he desires to be heard before passing final orders.

(7) An application for registration of wakfs may be presented or be sent by registered post to the office of the Board.

41. Register of wakfs.—The Board shall maintain a register of wakfs which shall contain the following particulars in respect of each wakf and shall also contain a copy or copies of the deed or deeds creating the wakf when available,—

(a) the names of trustees, Mutawalli and other persons connected with the administration of the wakf,

(b) the rule of the succession of the office of the Trustees (if any), or Mutawallis under the deed or wakf or by custom or by usage,

(c) particulars of the scheme of administration and the scale of expenditure at the time of registration,

(d) particulars of all properties relating to the wakf and all title deeds and documents relating thereto, and

(e) such other particulars as may be prescribed.

42. Power to order Mutawalli to apply.—The Board may direct a Mutawalli to apply for the registration of a wakf, or to supply any information regarding a wakf or may itself collect such information and may cause the wakf to be registered or may at any time amend the register of wakfs.

CHAPTER V.

AUDIT OF ACCOUNTS.

43. Audit.—(*1*) The accounts kept by the Board and the accoun submitted by Mutawallis under section 62 shall be audited annually or at such other intervals as may be determined by the Board by the auditor appointed under section 18 of this Act.

(*2*) The Auditors shall submit their report,—

(*a*) to the local Government in the case of accounts of a Board; and

(*b*) to the Board, in the case of the accounts of a wakf.

(*3*) The audit report of the auditors shall among other things, specif all cases of irregular, illegal or improper expenditure or of failure to recove moneys or other property or of loss or of waste of money or other propert caused by neglect or misconduct of the Mutawalli.

44. Examination of the Auditor's report.—The Board shall examin the auditor's report and after calling for the explanation of any person i regard to any matter mentioned therein shall pass such orders on the repor as it may think fit.

45. Realization of Amount.—Every sum certified to be due from an person by an auditor in his report under section 62, unless such certificat is modified or cancelled by the Board by an order made under section 3 and every sum due on a modified certificate shall be recoverable from such person by the Board.

CHAPTER VI.

ENQUIRY AND SUPERVISION.

46. Enquiries by the Board.—For the purpose of verifying the parti culars contained in the statement filed under section 40 or acting on the report of the auditor submitted under section 43, the Board may enquire into any matter either through any of its officers or members or any other person appointed under this behalf.

47. Application for enquiry.—Any member of the community to which the wakf belongs may by an application, supported by an affidavit, apply to the Board to institute any enquiry relating to the administration of a wakf, and the Board may take such action as it may think fit.

48. Powers of enquiring officer.—For the purposes of an enquiry under this Chapter the enquiring officer or committee shall have the same power of enforcing the attendance of witnesses and production of documents as the Civil Court has under the Code of Civil Procedure, 1908.

CHAPTER VII.

LEGAL PROCEEDINGS.

49. Civil suits relating to wakf.—Notwithstanding anything contained in section 92 of the Code of Civil Procedure, 1908 (Act V of 1908), a suit to obtain any relief mentioned in section 92 of the said Code, relating to any wakf to which this Act applies may be instituted by the Board without obtaining the consent referred to in that section, or by any person interested in the wakf with the previous sanction in writing of the Board and without obtaining the consent referred to in that section:

Provided that if in such suit the validity or propriety of any order or direction passed or made by the Board is challenged a suit shall be instituted without previous sanction after giving two months' notice to the Board as provided in section 50.

50. Suits under Religious Endowments Act.—A suit under section 14 of the Religious Endowments Act, 1863 (XX of 1863), concerning a wakf to which this Act applies, may, notwithstanding anything to the contrary contained in that Act be instituted by the Board without obtaining the leave referred to in section 18 of that Act, and no such suit shall be instituted by any person without the consent in writing of the Board.

51. Protection of the Board Committees, and their staff.—(*1*) Save as otherwise provided in this Act, no act done or direction issued by the Board *except an order settling the scheme of management of a wakf* shall be questioned in any court.

(*2*) No suit shall be instituted against the Board, or any of its members or servants or any other person deputed by the Board for carrying out any enquiry under this Act, for anything done by it or him in good faith in due discharge of his duties under this Act.

52. Compromise in suits by or against mutawallis.—No suit or proceedings in any court by or against a mutawalli of a wakf to which this Act applies, and relating to title to wakf property or to the rights of the mutawallis shall be compromised without the sanction of the Board.

53. Notice of suits by courts.—When any suit relating to title to any wakf property or to the right of Mutawalli is instituted in any Civil Court such court shall give a notice of such suit to the Board at the cost of the plaintiff. The Board may thereupon apply to be made a party to the suit, and the Court shall make the Board a party on such an application.

54. Notice of suits.—No suit shall be instituted against the Board, in respect of any act purporting to be done by the Board in due discharge of its functions under this Act, or for any relief in respect of any wakf, until the expiration of two months next after notice in writing has been delivered to the Secretary, or left at the office of the Board, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

55. Power of Board to make application to the court in case of failure of mutawalli to discharge his duties.—Where a charge exists on any property for the performance of any religious, pious or charitable act recognised as such by Muslim Law and there is a failure to perform such an act the Board may apply to the Court for an order directing the person in possession of the property to pay to the Board the amount necessary for the performance by the Board, or to any person appointed by the Board in this behalf, of the act for the performance of which the charge was created.

56. Application to compel mutawalli to discharge obligation or appointment of receiver.—Where the mutawalli of a wakf wilfully fails to discharge any of the duty imposed on him under the wakf, the Board or any person interested in wakf may make an application to the court for an order,—

(*a*) directing the mutawalli to discharge such obligation within a time to be specified in the order, or

(*b*) appointing receiver of the funds and property of the wakf if the mutawalli fails to carry out such direction within the time so specified.

57. Notice to Board of proceedings under the Land Acquisition Act, 1894, in respect of wakf property.—(*1*) In the course of a proceeding under the Land Acquisition Act, 1894 (I of 1894), the Collector before making an

award in respect of wakf property, shall issue a notice to the Board and shall stay further proceedings to enable it to plead as a party to the proceedings at any time within three months from the date of the receipt of the notice.

(*2*) Where the Board has reason to believe that any property under acquisition is a wakf property, it may at any time before the award is made appear and plead as a party to the proceedings.

(*3*) When the Board has appeared under the provision of sub-section (*2*), no order shall be passed under section 31 or section 32 of the Land Acquisition Act, 1894 (I of 1894), without giving opportunity to the Board to be heard.

(*4*) Any order passed under section 31 or section 32 of the Land Acquisition Act, 1894 (I of 1894), without giving opportunity to the Board to be heard shall be voidable at the option of the Board.

58. Notice of sales to be given to Board.—(*1*) Whenever any wakf property is notified for sale in execution of a decree of a Civil Court under the provisions of any Act, for the recoveries of public demand or in pursuance of a decree or an order of a collector or any revenue officer such court, collector, or revenue officer, shall give notice thereof to the Board also.

(*2*) If the notice required by sub-section (*1*) to be given to the Board in respect of any sale is not given, the sale shall be voidable at the option of the Board.

CHAPTER VIII.

ADMINISTRATION CHARGES.

59. Contribution by wakf.—(*1*) Every wakf to which this Act applies shall contribute annually for meeting the expenses incurred in the administration of this Act, such sum not exceeding five per cent. of the net annual income of such of its property as is situate in the State as the Board, subject to the sanction of the State Government may determine:

Provided that in case of those educational institutions which do not receive any aid from the Government or of wakf whose income is less than rupees one hundred per annum the aforesaid percentage shall not be levied.

(*2*) Contribution under this section shall be payable with effect from the date on which this section comes into force.

(*3*) The Board may, in the case of any particular wakf or wakfs, reduce or remit such contribution as it may think fit.

(*4*) Such contribution shall, subject to the prior payment of any dues to the Government and any other Statutory charges on the wakf property or the income thereof, be a first charge on the income of the wakf.

(*5*) If a mutawalli or person in charge of the managing or administration of the wakf realizes the income of the wakf and neglects or refuses to pay such contribution he shall also be personally liable for such contribution to the extent of the balance of realization remaining in his hand after payment of Land Revenue, cesses and taxes due to Government and local bodies, and the liability may be enforced in the manner as aforesaid.

(*6*) The mutawalli of a wakf may realize the fee payable by him under sub-section (*1*) from the beneficiaries of such wakf, but the realizable fee from any one of such persons shall not exceed such amount as shall bear to

the total contribution payable the same proportion as the value of benefits recoverable by such persons bears to the entire net available income of such wakf:

Provided that, if there is any income of such wakf in excess of the amount payable as due under this Act other than the fee payable under sub-section (*1*) and in excess of the amount payable under the wakf deed, the fee shall be paid in the first instance out of such income.

60. Board's power to borrow.—The Board shall have the power with the previous sanction of the State Government to borrow for the purpose of giving effect to the provisions of this Act, such amount and on such conditions as the State Government may determine.

CHAPTER IX.

MUTAWALLIS.

61. Appointment of mutawallis.—When there is a vacancy in the office of mutawalli of a wakf and there is no one competent to be appointed under the terms of the deed of wakf, or where the right of any person to act as mutawalli is disputed, the Board may appoint any person to act as a mutawalli from such period and on such conditions as it may think fit.

62. Duties of mutawallis.—(*1*) Every mutawalli shall carry out all directions consistent with the provisions of this Act, issued to him by the Board of wakf or by a committee appointed by the Board for the purpose of proper administration of wakfs. In particular he shall,—

(*a*) supply the details of wakfs in his charge,

(*b*) submit within one month after the 31st day of March, next following the date on which the wakf has been registered under section 28 and thereafter within thirty days of the 31st day of March, in every year, a full and true statement of accounts in such form and containing such particulars as may be prescribed by the Board and verified in manner prescribed by the Code of Civil Procedure, 1908, for verification of pleadings of all moneys received or expended by him on behalf of the wakf of which he is the mutawalli in respect of that portion of the wakf property which is situate in the State during the period of twelve months ending on the 31st March preceding the submission of such statement or during that portion of the said period during which the provisions of this Act have been applicable to the wakf:.

Provided that the date on which the annual accounts are to be closed may be verified at the discretion of the Board.

(*2*) All the details, accounts, and statements mentioned in sub-section (*1*) shall be submitted to Board. The mutawalli shall if and when required further be bound by himself or by his agent to attend at the audit of his accounts and to give all information required relating to his accounts.

63.. Power of the Board to make certain payment on behalf of wakf.—Where a mutawalli refuses to pay or fails to pay any Land Revenue, cesses, rent, rates of taxes due to the State or to a local Authority/Body from a wakf, the Board may defray the charges from the wakf fund and may recover the amount so paid from the wakf property and, if the refusal or

failure of the mutawalli was in the opinion of the Board wilful, the Board may also recover from the mutawalli responsible for such refusal or failure damages at the rate of twelve and a half per cent. of the amount so paid:

Provided that a mutawalli aggrieved by a decision of the Board to recover damages under this sub-section may apply to the court to have the order regarding damages set aside or modified and the order of the Court on such application shall be final.

64. Removal of mutawallis by the Board.—The Board may remove a mutawalli from his office if such mutawalli—

(*a*) after having once been convicted of an offence punishable under section 66 is again convicted of any such offence;

(*b*) is convicted of an offence relating to the wakf property or money which in the opinion of the Board renders him unfit to continue to be a mutawalli; or

(*c*) refuses to act; and

(*d*) applies for being adjudicated or is an undischarged insolvent.

65. Committee of supervision.—(*1*) Whenever the supervision of a wakf is vested in any existing committee appointed by the wakf or any competent court of authority such committee shall, notwithstanding anything contained in the Act, continue to function until superseded by the Board under sub-section (*2*):

Provided that such committee shall be under the control of the Board and shall abide by such directions of the Board as are not inconsistent with any directions of the wakf or of the court or authority appointing such committee.

(*2*) The Board may supersede any such committee as aforesaid if it does not in its opinion function properly and satisfactorily, and on such supersession any decree or order of a court or competent authority under which such committee has been constituted shall cease to have any force.

(*3*) Any order passed by a Board under sub-section (*2*) shall be final and shall not be questioned in any court of law.

66. Penalties.—(*1*) If a mutawalli fails without reasonable cause or excuse, the burden of proving which shall be upon him,—

(*a*) to apply for a registration of a wakf as provided in section 28, or

(*b*) to submit statement of particulars or of accounts and returns as required by this Act, or

(*c*) to supply information or particulars required by the Board, or

(*d*) to allow inspection under the provision of this Act, of wakf properties and deeds and documents relating thereto, or

(*e*) to give assistance in enquiries and investigations when called upon to do so by the Board or Committee appointed by the Board or by superintendents or auditors working under the orders of the Board, or

(*f*) to deliver possession of any wakf property if ordered to do so, by the Board,

(*g*) to deposit any surplus income in his hands in any recognized bank when directed to do so by the Board,

he will, on conviction before a magistrate of the first or second class be punishable with fine which may extend to rupees two hundred and fifty for the first offence and to rupees one thousand for every subsequent offence.

(2) No Magistrate shall take cognizance of an offence under sub-section (1) otherwise than on a complaint made by any person duly authorised by the Board in this behalf.

CHAPTER X.

RULES AND BYELAWS.

67. Rules by State Government.—(1) The State Government may after previous publication in the Official Gazette make rules not inconsistent with this Act for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the State Government may make rules with respect to all or any of the following matters,

(a) the conditions and restrictions subject to which the Board may transfer any property under sub-section (2) of section 7 of the Act;

(b) the method in which the work of the survey of wakf under Chapter I is carried on;

(c) the manner in which the member shall be elected under section 8 of the Act;

(d) other matters expressly required or allowed by this Act to be prescribed or done by the State Government.

68. Byelaws by the Board.—(1) The Board may subject to the approval of the State Government make byelaws not inconsistent with this Act for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the Board shall with the approval of the State Government have power to make byelaws with respect to,—

(a) all matters required or allowed by this Act to be prescribed or done by the Board,

(b) the conduct of business by the Board,

(c) the grant of travelling allowances to the President and members of the Board,

(d) the constitution, functions and procedure of the committee appointed by the Board and their Finance,

(e) the custody and investment of wakf funds,

(f) the custody and investment of the Fund of any wakf, and the conditions subject to which a mutawalli shall deposit wakf money in his hands and the conditions subject to which a mutawalli can withdraw such money,

(g) books and accounts to be kept at the office of the Board and by the committee appointed by the Board,

(h) the manner in which the accounts of wakf shall be audited and published, the time and place of such audit, the form and content of the auditors' report and the scale of remunerations to be paid to the auditors,

(i) the number, designation, grades, salaries, allowances, and other conditions of service, including the power and duties of the officers and servants of the Board,

(j) the custody of the common seal,

(k) the person by whom receipts may be granted for money received by the Board,

(*l*) the granting of pensions and gratuities out of wakf Funds,

(*m*) the method of calculating the income of a wakf, for the purpose of levying contribution under this Act,

(*n*) the fee to be levied on applications before the Board of committees under the Act, or on application for inspection of register of wakfs and other records and for copies of the proceedings and other records of the Board.

(*3*) All byelaws framed under this section shall be published in the Gazette and shall have thereafter the force of law.

69. Names of members and President to be notified.—The names of the members and President of the Board shall be published in the official Gazette of the State as soon as possible after their election or co-option as the case may be.

70. Accounts and Budget of the Board.—The Accounts of the Board shall be audited annually by an auditor appointed by the Government and a copy of the report and a copy of the Budget shall be submitted to the State Government and to the Central Board of Muslim Wakfs for information. The Board shall give such information and submit such reports and statements as may be called for by the State Goernment and Central Board of Muslim Wakfs.

71. Extension of time.—The Board may, if it is satisfied that there is sufficient cause for doing so, extend time within which any act is required or ordered to be done under this Act.

72. Wakf Fund.—All moneys realized under section 59 and all moneys realized from fees in respect of proceedings before the Board and all other moneys realized under this Act, shall form a Fund to be called the 'Wakf Fund'.

Such fund shall be under the the control of the Board subject to the general supervision of the State Government and shall be applied to the following expenses which shall be met exclusively from that fund:—

(*a*) repayment of any loan incurred under section 60 and payment of interest thereof;

(*b*) payment of the cost of audit of Wakf Fund;

(*c*) payment of the salary and allowances of the Secretary and staff of the Board and the Secretary and the staff of sub-committee under the Board;

(*d*) payment of travelling allowances to the President, members, Secretary and staff of the Board or of any person deputed for any enquiry under the Act;

(*e*) payment of all expenses incurred by the Board and the sub-committee in the performance of the duties imposed and the exercise of the powers conferred by this Act.

73. Liability of Government for expenses.—Government shall not be liable for any expenditure incurred in the administration of this Act.

CHAPTER XI.

SAVINGS AND REPEAL.

74. Savings.—Nothing in the following Regulations, Acts and provisions shall apply to any wakf to which this Act applies:—

(*i*) Bengal Regulation, XIX of 1810.

(*ii*) Section 5 of the Religious Endowments Act, 1863 (XX of 1863).

(*iii*) The Charitable Endowments Act, 1890 (VI of 1890).

(*iv*) The Charitable and Religious Trust Act, 1920 (XIV of 1920).

75. Repeal.—The following Acts are hereby repealed:—

	Name of the Act.	Extent of Repeal.
1.	The Bengal Wakf Act, 1934 (XIII of 1934) ...	Whole.
2.	The Mussalman Wakfs (Bombay Amendt.) Act, 1933 (XVIII of 1933) ...	Whole.
3.	Mussalman Wakfs Act, 1923 (XLII of 1923) in so far as it extends to the States where this Act comes into force ...	Whole.

76. Recovery of dues by distress.—Every sum recoverable under section 45 and the contribution under section 59 may be recovered by the Board by means of distress of sale of movable property belonging to the person liable for payment, in accordance with the rules framed by the State Government in this behalf.

STATEMENT OF OBJECTS AND REASONS.

The management of Wakfs though it vests immediately in a mutawalli, is a subject which requires the supervision of the State. The need for supervision has been felt, and in addition to various enactments dealing with the subject of charitable endowments, the Musalman Wakf Act, 1923 (No. 42 of 1923), was enacted for the whole of India. This Act merely provides for the submission of audited accounts by the Mutawallis, to the district judges. This Act did not prove of much practical value. The Musalman Wakf (Bombay Amendment) Act, 1935 (XVIII of 1935) amended the Musalman Wakf Act, 1923 (42 of 1923). The Bengal Wakf Act, 1934 (No. XIII of 1934), was enacted to create a machinery for the supervision of wakfs in Bengal. The U. P. followed suit and the United Provinces Muslim Wakfs Act, 1936 (XIII of 1936), was passed creating a Central Wakf Board. Similarly Bihar also passed a legislation almost on the same lines. The working of these Acts has brought out the necessity of some amendments. Further many of the States have got no Act for the purpose. It is therefore necessary, that one uniform and consolidated legislation may be passed by the Centre, which may be adopted as a model Act by the various States. It is with this view that the present Bill is introduced.

MOHAMMAD AHMAD KAZMI.

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PART VI.—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

GOVERNMENT OF WEST BENGAL.

Legislative Department.

NOTIFICATION.

No. 1665L.—28th August, 1952.— The following Bill which was introduced in the Council of States and in regard to which a motion was carried on the 7th August, 1952, that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1952, is hereby published for general information together with the Statement of Objects and Reasons annexed thereto. Written expressions of opinion by any person or public body should be sent so as to reach the Judicial Department of the Government of West Bengal not later than the 15th December, 1952. Any opinion which is submitted direct to the Council of States Secretariat or the Ministry of Law of the Government of India, or to any other Ministry of the Government of India or to any other Department of the State Government will not be accepted for consideration.

Bill No. III of 1952.

THE SPECIAL MARRIAGE BILL, 1952.

(As introduced in the Council of States.)

A

BILL.

to provide a special form of marriage in certain cases, and for the registration of such and certain other marriages.

Be it enacted by Parliament as follows:—

PART I.

PRELIMINARY.

1. Short title, extent and commencement.—(*1*) This Act may be called the Special Marriage Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to citizens of India outside India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "consular officer" means a consul-general, consul, vice-consul, pro-consul or consular agent;

(*b*) "diplomatic officer" means an ambassador, envoy, minister, *chargé d' affaires*, high commissioner, commissioner or other diplomatic representative, or a counsellor or secretary of an embassy, legation or high commission;

(*c*) "district" in relation to a Marriage Officer, means the area for which he is appointed as such under sub-section (*1*) or sub-section (*2*) of section 3;

(*d*) "prescribed" means prescribed by rules made under this Act;

(*e*) "State Government", in relation to a Part C State, means the Lieutenant Governor or, as the case may be, the Chief Commissioner.

3. Marriage Officers.—(*1*) For the purposes of this Act, the State Government may, by notification in the Official Gazette, appoint one or more Marriage Officers for the whole or any part of the State.

(*2*) For the purposes of this Act in its application to citizens of India outside India, the Central Government may, by notification in the Official Gazette, appoint one or more diplomatic or consular officers to be Marriage Officers for any country, place or other area outside India.

PART II.

SOLEMNIZATION OF SPECIAL MARRIAGES.

4. Conditions relating to solemnization of special marriages.—Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two persons may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled, namely:—

(*a*) neither party has a spouse living;

(*b*) neither party is an idiot or a lunatic;

(*c*) the parties have completed the age of eighteen years;

(*d*) each party, if he or she has not completed the age of twenty-one years, has obtained the consent of his or her father or guardian to the marriage;

(*e*) the parties are not within the degrees of prohibited relationship; and

(*f*) where the marriage is solemnized outside India, both parties are citizens of India.

Explanation I.—Two parties are said to be within "the degrees of prohibited relationship" if one is a lineal ascendant of the other, or was the wife or husband of a lineal ascendant or descendant of the other, or if the two are brother and sister, uncle and niece, aunt and nephew, or the children of two brothers or of two sisters.

Explanation II.—'Relationship' includes—

(*a*) relationship by half or uterine blood as well as by full blood;

(*b*) illegitimate blood relationship as well as legitimate;

(*c*) relationship by adoption as well as by blood;

and all terms of relationship in this section shall be construed accordingly.

5. Notice of intended marriage.—When a marriage is intended to be solemnized under this Act, the parties to the marriage shall give notice thereof in writing in the form specified in the First Schedule to the Marriage Officer of the district in which at least one of the parties to the marriage has resided for a period of not less than thirty days immediately preceding the date on which such notice is given.

6. Marriage Notice Book and publication.—(*1*) The Marriage Officer shall keep all notices given under section 5 with the records of his office and shall also forthwith enter a true copy of every such notice in a book prescribed for that purpose, to be called the Marriage Notice Book, and such book shall be open for inspection at all reasonable times, without fee, by any person desirous of inspecting the same.

(*2*) The Marriage Officer shall cause every such notice to be published by affixing a copy thereof to some conspicuous place in his office.

7. Objection to marriage.—(*1*) Any person may, before the expiration of thirty days from the date on which any such notice has been given, object to the marriage on the ground that it would contravene one or more of the conditions specified in section 4.

(*2*) After the expiration of thirty days from the date on which notice of an intended marriage has been given under section 5, the marriage may be solemnized, unless it has been previously objected to under sub-section (*1*).

(*3*) The nature of the objection shall be recorded in writing by the Marriage Officer in the Marriage Notice Book, be read over and explained, if necessary, to the person making the objection and shall be signed by him or on his behalf.

8. Procedure on receipt of objection.—(*1*) If an objection is made under section 7 to an intended marriage, the Marriage Officer shall refer the objector to a court of competent jurisdiction and shall postpone the solemnization of the marriage for thirty days from the receipt of such objection, if such court be open at the time and if not, until the expiration of thirty days from the opening of such court.

(*2*) The person objecting to the intended marriage may file a suit in any civil court of competent jurisdiction for a declaration that such marriage contravenes one or more of the conditions specified in section 4, and the court in which such suit is filed shall thereupon give the person filing it a certificate to the effect that such suit has been filed.

(*3*) If the certificate given by the court is lodged with the Marriage Officer within the period specified in sub-section (*1*), the Marriage Officer shall not solemnize the marriage until the decision of such court has been given and the period allowed by law for appeal from such decision has elapsed, or, if there is an appeal from such decision, until the decision of the appellate court has been given.

(*4*) If such certificate is not lodged within the time granted by the Marriage Officer under sub-section (*1*), or if the decision of the court is that the marriage does not contravene any of the conditions specified in section 4, the marriage may be solemnized by the Marriage Officer to whom the notice of marriage has been given.

(*5*) If the decision of the court is that the marriage contravenes any of the conditions specified in section 4, the marriage shall not be solemnized.

(*6*) Notwithstanding anything contained in this section, where an objection is made under section 7 to an intended marriage of which notice has been given to a Marriage Officer outside India, the Marriage Officer shall not solemnize the marriage but shall transmit a copy of the objection with

such statement respecting the matter as he thinks fit, to the Central Government, and the Central Government, after making such inquiry into the matter and after obtaining such advice as it thinks fit, shall give its decision thereon in writing to the Marriage Officer who shall conform to the decision of the Central Government in this behalf.

9. Penalty where objection not reasonable.—If it appears to the court in which the suit is filed that the objection was not reasonable and *bona fide*, it may impose on the person objecting additional costs by way of compensation not exceeding one thousand rupees and award the whole or any part of that amount to the parties to the intended marriage.

10. Declaration by parties and witnesses.—Before the marriage is solemnized the parties and three witnesses shall, in the presence of the Marriage Officer, sign a declaration in the form specified in the Second Schedule to this Act, and if either party has not completed the age of twenty-one years the declaration shall also be signed by his or her father or guardian, as the case may be, and in every case the declaration shall be countersigned by the Marriage Officer.

11. Place and form of solemnization.—(*1*) The marriage may be solemnized at the office of the Marriage Officer, or at such other place within a reasonable distance therefrom as the parties may desire, and upon such conditions and the payment of such additional fees as may be prescribed.

(*2*) The marriage may be solemnized in any form which the parties may choose to adopt:

Provided that it shall not be complete and binding on the parties, unless each party says to the other in the presence of the Marriage Officer and the three witnesses,—"I, (A), take thee (B), to be my lawful wife (or husband)."

12. Certificate of marriage.—(*1*) When the marriage has been solemnized, the Marriage Officer shall enter a certificate thereof in the form specified in the Third Schedule in a book to be kept by him for that purpose and to be called the Marriage Certificate Book and such certificate shall be signed by the parties to the marriage and the three witnesses.

(*2*) On a certificate being entered in the Marriage Certificate Book by the Registrar, the Certificate shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized and that all formalities respecting the signatures of witnesses have been complied with, but nothing contained in this sub-section shall apply to render a marriage valid which would otherwise have been invalid.

13. New notice when marriage not solemnized within three months.—Whenever a marriage is not solemnized within three calendar months from the date on which notice thereof has been given to the Marriage Officer as required by section 5, or, where the person objecting to the intended marriage has filed a suit in a court of competent jurisdiction and the decision of such court has been given, within three calendar months from the date on which the period allowed by law for appeal from such decision expires, or if there is an appeal from such decision within three calendar months from the date of the decision of the appellate court, or where a copy of the objection has been transmitted to the Central Government under sub-section (*6*) of section 8, within three months from the date of decision of the Central Government, the notice and all other proceedings arising therefrom shall be deemed to have lapsed and no Marriage Officer shall allow the marriage to be solemnized until a new notice has been given in the manner laid down in this Part.

PART III.

REGISTRATION OF MARRIAGES SOLEMNIZED IN OTHER FORMS.

14. Registration of marriages solemnized in other forms.—(*1*) Any marriage solemnized, whether before or after the commencement of this Act, other than a marriage solemnized under the Special Marriage Act, 1872 (III of 1872), or under this Act, may be registered under this Part by a Marriage Officer in India if the following conditions are fulfilled, namely:—

(*a*) a ceremony of marriage has been performed between the parties and they have been living together as husband and wife ever since;

(*b*) neither party has at the time of registration more than one spouse living;

(*c*) neither party is an idiot or a lunatic at the time of registration;

(*d*) the parties have completed the age of twenty-one years;

(*e*) the parties are not within the degrees of prohibited relationship as defined in section 4; and

(*f*) the parties have been residing within the district of the Marriage Officer for a period of not less than thirty days immediately preceding the date on which the application is made to him for registration of the marriage.

15. Procedure for registration.—Upon receipt of an application signed by both the parties to the marriage for the registration of their marriage under this Part, the Marriage Officer shall give public notice thereof in such manner as may be prescribed, and after allowing a period of thirty days for objections and after hearing any objection received within that period, and shall, if satisfied that all the conditions mentioned in section 14 are fulfilled, enter a certificate of the marriage in the Marriage Certificate Book in the form specified in the Fourth Schedule, and such certificate shall be signed by the parties to the marriage and by three witnesses.

16. Appeals from orders under section 15.—Any person aggrieved by any order of a Marriage Officer refusing to register a marriage under this Part may, within fifteen days from the date of the order, appeal against that order to the district court within the local limits of whose jurisdiction the Marriage Officer has his office, and the decision of the district court on such appeal shall be final, and the Marriage Officer to whom the application was made shall proceed in accordance therewith.

17. Effect of registration of marriage under this Part.—Where a certificate of marriage has been finally entered in the Marriage Certificate Book under this Part, the marriage shall as from the date of such entry, be deemed to be a marriage solemnized under this Act, and all the provisions of this Act shall thereupon apply to such marriage as if it had, in fact, been solemnized under this Act.

PART IV.

CONSEQUENCES OF MARRIAGE UNDER THIS ACT.

18. Effect of marriage on member of undivided family.—The marriage solemnized under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family.

19. Rights and disabilities not affected by Act.—Subject to the provisions of section 18, any person whose marriage is solemnized under this Act, shall have the same rights and shall be subject to the same disabilities in

regard to the right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850 (XXI of 1850) applies:

Provided that nothing in this section shall confer on any person any right to any religious office or service or to the management of any religious or charitable trust.

20. Person marrying under Act not to have right of adoption.—No person who has his marriage solemnized under this Act shall have any right of adoption.

21. Adoption by father or mother of person marrying under Act.—When a person professing the Hindu, Buddhist, Sikh or Jaina religion has his marriage solemnized under this Act, his father or his mother where she is otherwise entitled to adopt, shall, if he or she has no other son living, have the right to adopt any person as his or her son under the law to which he or she is subject.

22. Act IV of 1869 to apply.—Notwithstanding anything to the contrary contained in the Indian Divorce Act, 1869 (IV of 1869) that Act shall apply to all marriages solemnized under this Act, and any such marriage may be declared null or dissolved in the manner therein provided, and for the causes therein mentioned, or on the ground that the marriage contravenes one or more of the conditions, specified in section 4 of this Act.

23. Succession to property of parties married under Act.—Succession to the property of any person whose marriage is solemnized under this Act and to the property of the issue of such marriage shall be regulated by the provisions of the Indian Succession Act, 1925 (XXXIX of 1925).

PART V.

MISCELLANEOUS.

24. Saving.—Nothing contained in this Act shall affect the validity of any marriage not solemnized under its provisions; nor shall this Act be deemed directly or indirectly to affect the validity of any mode of contracting marriage.

25. Penalty on married person marrying again under this Act.—Every person who, being at the time married, procures a marriage of himself to be solemnized under this Act shall be deemed to have committed an offence under section 494 or section 495 of the Indian Penal Code (Act XLV of 1860), as the case may be, and the marriage so solemnized shall be void.

26. Punishment of bigamy.—Every person married under this Act who, during the lifetime of his or her wife or husband, contracts any other marriage shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code (Act XLV of 1860), for the offence of marrying again during the lifetime of a husband or wife, and the marriage so contracted shall be void.

27. Penalty for signing false declaration or certificate.—Every person making, signing or attesting any declaration or certificate required by or under this Act containing a statement which is false and which he either knows or believes to be false or does not believe to be true shall be guilty of the offence described in section 199 of the Indian Penal Code (Act XLV of 1860).

28. Penalty for wrongful action of Marriage Officer.—Any Marriage Officer who knowingly and wilfully solemnizes a marriage under this Act—

(*1*) without publishing a notice regarding such marriage as required by section 5, or

(2) within thirty days after receipt by him of the notice of such marriage, or

(3) in contravention of any other provision contained in this Act,

shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to a fine which may extend to five hundred rupees.

29. Marriage Certificate Book to be open to inspection.—(1) The Marriage Certificate Book kept under this Act shall at all reasonable times be open for inspection and shall be admissible as evidence of the truth of the statements therein contained.

(2) Certified extracts from the Marriage Certificate Book shall, on application, be given by the Marriage Officer to the applicant on payment by him of the prescribed fee.

30. Transmission of copies of entries in marriage records.—Every Marriage Officer in a State shall send to the Registrar-General of Births, Deaths and Marriages of that State at such intervals and in such form as may be prescribed, a true copy of all entries made by him in the Marriage Certificate Book since the last of such intervals, and in the case of Marriage Officers outside India, the true copy shall be sent to such authority as the Central Government may specify in this behalf.

31. Correction of errors.—(1) Any Marriage Officer who discovers any error in the form or substance of any entry in the Marriage Certificate Book may, within one month next after the discovery of such error, in the presence of the persons married or, in case of their death or absence, in the presence of two other credible witnesses, correct the error by entry in the margin without any alteration of the original entry and shall sign the marginal entry and add thereto the date of such correction and the Marriage Officer shall make the like marginal entry in the certificate thereof.

(2) Every correction made under this section shall be attested by the witnesses in whose presence it was made.

(3) Where a copy of any entry has already been sent under section 30 to the Registrar-General or other authority the Marriage Officer shall make and send in like manner a separate certificate of the original erroneous entry and of the marginal corrections therein made.

32. Power to make rules.—(1) The Central Government, in the case of diplomatic and consular officers and the State Government, in all other cases may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the duties and powers of Marriage Officers and the areas in which they may exercise jurisdiction;

(b) the form and manner in which any books required by or under this Act shall be maintained;

(c) the fees that may be levied for the performance of any duty imposed upon a Marriage Officer under this Act;

(d) the manner in which public notice shall be given under section 15;

(e) the form in which, and the intervals within which, copies of entries in the Marriage Certificate Book shall be sent in pursuance of section 30.

33. Repeals and savings.—(*1*) The Special Marriage Act, 1872 (III of 1872), is hereby repealed.

(*2*) If immediately before the commencement of this Act there is in force in any Part B State any law corresponding to the Special Marriage Act, 1872, that law on such commencement shall also stand repealed, and section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to such repeal, as if the corresponding law had been an enactment:

Provided that without prejudice to the provisions contained in section 6 of the General Clauses Act, 1897, any marriage registered under such corresponding law shall be deemed to have been registered under this Act.

THE FIRST SCHEDULE.

(*See* section 5.)

NOTICE OF INTENDED MARRIAGE.

To

.....,

Marriage Officer for the.....District.

WE hereby give you notice that a marriage under the Special Marriage Act, 1952, is intended to be solemnized between us within three calendar months from the date hereof.

Name	Condition	Occupation	Age	Dwelling Place	Length of residence
A. B.	Unmarried / Widower / Divorcee				
C. D.	Spinster / Widow / Divorcee				

Witness our hands this.....

day of.....19

(Sd.) A.B.

(Sd.) C.D.

THE SECOND SCHEDULE.

(*See* section 10.)

DECLARATION TO BE MADE BY THE BRIDEGROOM.

I, A.B., hereby declare as follows:—

1. I am at the present time unmarried (or a widower or a divorcee, as the case may be).
2. I have completed years of age.
3. I am not related to C. D. (the bride) within the degrees of prohibited relationship.

[And when the bridegroom has not completed the age of twenty-one years.]

4. The consent of my father (or guardian, as the case may be) has been given to a marriage between myself and C.D., and has not been revoked.

5. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Sd.) A. B. (the Bridegroom).

DECLARATION TO BE MADE BY THE BRIDE.

I, C.D., hereby declare as follows:—

1. I am at the present time unmarried (or a widow or a divorcee, as the case may be).

2. I have completed years of age.

3. I am not related to A.B. (the bridegroom) within the degrees of prohibited relationship.

[And when the bride has not completed the age of twenty-one years.]

4. The consent of my father (or guardian, as the case may be) has been given to a marriage between myself and A.B., and has not been revoked.

5. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and also to fine.

(Sd.) C.D. (the Bride).

Signed in our presence by the abovenamed A.B. and C.D. So far as we are aware there is no lawful impediment to the marriage.

(Sd.) G.H.
(Sd.) I.J. } *Three Witnesses.*
(Sd.) K.L.

[And when the bridegroom or bride has not completed the age of twenty-one years.]

Signed in my presence and with my consent by the abovenamed A.B. or C.D.

M. N. (the father or guardian of the abovenamed A.B. or C.D. as the case may be).

Countersigned E.F.
Marriage Officer.

Dated the day of 19

THE THIRD SCHEDULE.

(*See* section 12.)

CERTIFICATE OF MARRIAGE.

I, E.F., hereby certify that on the day of 19 , A.B. and C.D. appeared before me and that each of them, in my presence and in the presence of three witnesses who have signed hereunder, made the declarations required by section 10 and that a marriage under this Act was solemnized between them in my presence.

(Sd.) E.F.,

Marriage Officer for

(Sd.) A.B.,
Bridegroom.
(Sd.) C.D.,
Bride.

(Sd.) G.H.
(Sd.) I.J.
(Sd.) K.L.
} *Three Witnesses.*

Dated the day of 19 .

THE FOURTH SCHEDULE.

(*See* section 15.)

CERTIFICATE OF MARRIAGE SOLEMNIZED IN OTHER FORMS.

I, E.F., hereby certify that A.B. and C.D. appeared before me this day of 19 and that each of them, in my presence and in the presence of three witnesses who have signed hereunder, have declared that a ceremony of marriage has been performed between them and that they have been living together as husband and wife since the time of their marriage, and that in accordance with their desire to have their marriage registered under this Act, the said marriage has, this day of 19 been registered under this Act, having effect as from

(Sd.) E.F.,

Marriage Officer for

(Sd.) A.B.,
Husband.
(Sd.) C.D.
Wife.

(Sd.) G.H.
(Sd.) I.J.
(Sd.) K.L.
} *Three Witnesses.*

Dated the day of 19

STATEMENT OF OBJECTS AND REASONS.

This Bill revises and seeks to replace the Special Marriage Act of 1872 so as to provide a special form of marriage which can be taken advantage of by any person in India and by all Indian nationals in foreign countries irrespective of the faith which either party to the marriage may profess. The parties may observe any ceremonies for the solemnization of their marriage, but certain formalities are prescribed before the marriage can be registered by the Marriage Officers. For the benefit of Indian citizens abroad, the Bill provides for the appointment of Diplomatic and Consular Officers as Marriage Officers for solemnizing and registering marriages between citizens of India in a foreign country.

2. Provision is also sought to be made for permitting persons who are already married under other forms of marriage to register their marriages under this Act and thereby avail themselves of these provisions.

3. The Bill is drafted generally on the lines of the existing Special Marriage Act of 1872 and the notes on clauses attached hereto explain some of the changes made in the Bill in greater detail.

C. C. BISWAS.

NEW DELHI;
The 23rd July, 1952.

NOTES ON CLAUSES.

Clause 1.—The Act is to have extra territorial operation so as to permit of marriages between citizens of India being solemnized outside India.

Clause 3.—Diplomatic and Consular Officers may be appointed as Marriage Officers outside India.

Clause 4.—Apart from the fact that the provisions of this Act, if passed, will apply to all persons marrying thereunder irrespective of the religion they may possess, the other changes of importance which have been made in this clause, as compared with section 3 of Act III of 1872, are the following, namely:—

(*a*) the addition of a new condition relating to idiocy and lunacy, as in sub-clause (*b*);

(*b*) the raising the age limit for marriage to 18 in the case of either party, subject to the obtaining the consent of the father or guardian where he or she has not attained the age of 21 years;

(*c*) the provision for marriages abroad between citizens of India;

(*d*) the re-statement of prohibited degrees in simpler terms.

Clauses 5 to 12.—Apart from minor drafting changes, these clauses correspond to sections 4 to 13 of Act III of 1872 except that in clauses 5 and 11 the period of 14 days now available is being increased to 30 days. Incidentally, in clause 8 a special provision is sought to be made for the disposal of objections in the case of intended marriages abroad.

Clause 13 is a new and useful provision on the lines of section 52 of the Christian Marriage Act, 1872.

Clauses 14 to 17 are new and provide for the registration under this Act of marriages solemnized in other forms, so as to enable the parties thereto to avail themselves of the benefits of this Act. No application for such registration can, however, be made unless it is signed by both the parties to the marriage.

Clauses 18 to 27 correspond to sections 22, 23, 25, 26, 17, 24, 19, 15, 16 and 21, respectively of Act III of 1872. With respect to clause 19, the Caste Disabilities Removal Act, 1850, provides that so much of any law or usage as may be held in any way to impair or affect any right of inheritance of any person by reason of his or her renouncing or having been excommunicated from the communion of any religion or being deprived of caste shall cease to be enforced as law. In clause 21 it is now provided that the mother also, if otherwise entitled, may adopt a son.

Clauses 28 to 33.—Although some of these clauses are new, they are self-explanatory and do not call for any comment.

By order of the Governor,
S. K. D. GUPTA, Secy.

GOVERNMENT OF WEST BENGAL.

Legislative Department.

NOTIFICATION.

No. 1662L.—28th August, 1952.—The following Bill which was introduced in the Council of States and in regard to which a motion was carried on the 7th August, 1952 that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st October, 1952, is hereby published for general information together with the Statement of Objects and Reasons annexed thereto. Written expressions of opinions by any person or public body should be sent so as to reach the Home (Political) Department of the Government of West Bengal not later than the 15th October, 1952. Any opinion which is submitted direct to the Council of States Secretariat or the Ministry of Law of the Government of India, or to any other Ministry of the Government of India or to any other Department of the State Government will not be accepted for consideration.

Bill No. IV of 1952.

THE CANTONMENTS (AMENDMENT) BILL, 1952.

(AS INTRODUCED IN THE COUNCIL OF STATES.)

A

BILL

further to amend the Cantonments Act, 1924.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Cantonments (Amendment) Act, 1952.

2. **Amendment of section 2, Act II of 1924.**—In section 2 of the Cantonments Act, 1924 (hereinafter referred to as the principal Act),—

(*a*) after clause (*ii*) the following clause shall be inserted, namely:—

'(*iia*) "boundary wall" means a wall which abuts on a street and which does not exceed eight feet in height;';

(*b*) in clause (*iv*), for the brackets and words "(other than a boundary wall not exceeding eight feet in height and not abutting on a street)" the brackets and words "(other than a boundary wall)" shall be substituted.

3. **Omission of section 2A, Act II of 1924.**—Section 2A of the principal Act shall be omitted.

4. **Amendment of section 4, Act II of 1924.**—In sub-section (*1*) of section 4 of the principal Act, after the words "The Central Government may," the words "after consulting the State Government concerned," shall be inserted.

5. **Amendment of section 12, Act II of 1924.**—In the proviso to sub-section (*1*) of section 12 of the principal Act, for the words "Provided that" the following shall be substituted, namely:—

"Provided that where a member of the Military Lands and Cantonments Service is not readily available for such appointment, a Military Officer may be appointed as an Executive Officer:

Provided further that"

6. Amendment of section 26, Act II of 1924.—In sub-section (*3*) of section 26 of the principal Act,—

(*a*) the words "or the inhabitants into classes," shall be omitted; and

(*b*) the words "or class, as the case may be" shall be omitted.

7. Amendment of section 28, Act II of 1924.—In sub-section (*2*) of section 28 of the principal Act, after clause (*dd*) the following clause shall be inserted, namely:—

"(*ddd*) is a member of any other local authority; or"

8. Omission of section 30, Act II of 1924.—Section 30 of the principal Act shall be omitted.

9. Amendment of section 31, Act II of 1924.—In section 31 of the principal Act,—

(*i*) in clause (*a*) the words "or of the inhabitants of a cantonment into classes, or both" shall be omitted.

(*ii*) in clause (*b*) the words "or class of persons" shall be omitted.

10. Amendment of section 34, Act II of 1924.—To clause (*b*) of sub-section (*1*) of section 34 of the principal Act, the following *Explanation* shall be added, namely:—

Explanation.—In computing the aforesaid period of three consecutive months, no account shall be taken of any period of absence with the leave of the Board.

11. Amendment of section 43A, Act II of 1924.—In sub-section (*1*) of section 43A of the principal Act, for the words "bazar areas" the words "civil areas" shall be substituted.

12. Amendment of section 73, Act II of 1924.—In sub-section (*3*) of section 73 of the principal Act, for the words "as the Executive Officer may direct," the words "as may be determined by rules made under section 280," shall be substituted.

13. Amendment of section 103, Act II of 1924.—For sub-section (*2*) of section 103 of the principal Act, the following sub-section shall be substituted, namely :—

"(*2*) If any person, when called upon under sub-section (*1*) to furnish information, neglects to furnish it within the period specified in this behalf by the Executive Officer or furnishes information which is not true to the best of his knowledge or belief, he shall be punishable with fine which may extend to one hundred rupees and shall also be liable to be assessed at such amount on acount of tax as the Executive Officer may deem proper, and the assessment so made shall, subject to the provisions of this Act, be final."

14. Amendment of section 113, Act II of 1924.—In clause (*b*) of sub-section (*1*) of section 113 of the principal Act, for the words "one hundred rupees" the words "two hundred rupees" shall be substituted.

15. Amendment of section 114, Act II of 1924.—In sub-section (*1*) of section 114 of the principal Act,—

(*a*) for the words "fifty rupees" the words "one hundred rupees" shall be substituted ;

(*b*) in the proviso, for the words "two hundred rupees" the words "five hundred rupees" shall be substituted.

16. **Amendment of section 118, Act II of 1924.**—In sub-section (*4*) of section 118 of the principal Act,—

(*a*) after the word "picketed" the words "or straying" shall be inserted; and

(*b*) the words "as if the animal had been found straying" shall be omitted.

17. **Amendment of section 181, Act II of 1924.**—In sub-section (*6*) of section 181 of the principal Act, for the words "one month", wherever they occur, the words "two months" shall be substituted.

18. **Amendment of section 185, Act II of 1924.**—In sub-section (*1*) of section 185 of the principal Act, for the words "six months" the words "twelve months" shall be substituted.

19. **Substitution of new section for section 200, Act II of 1924.**—For section 200 of the principal Act, the following section shall be substituted, namely :—

"200. *Power to transfer by public auction, etc.*—The Board may transfer by public auction, for any period not exceeding three years at a time, the right to occupy or use any stall, shop, standing, shed or pen in a public market, or public slaughter house, or the right to expose goods for sale in a public market or the right to weigh or measure goods sold therein, or the right to slaughter animals in any public slaughter house:

Provided that where the Board is of opinion that such transfer of the aforesaid rights by public auction is not considered desirable or expedient, it may, with the previous sanction of the General Officer Commanding-in-Chief of the Command,—

(*a*) either levy such stallages, rents or fees as it thinks fit; or

(*b*) farm the stallages, rents and fees leviable under clause (*a*) for any period not exceeding one year at a time."

20. **Amendment of section 210, Act II of 1924.**—To sub-section (*2*) of section 210 of the principal Act, the words "or that the premises in which the business is intended to be established or maintained are unsuitable for the purpose" shall be added.

21. **Amendment of section 235, Act II of 1924.**—In section 235 of the principal Act,—

(*a*) after the words "Officer Commanding the station", wherever they occur, the words "or the Board" shall be inserted;

(*b*) after the words "before him" the words "or the Board, as the case may be" shall be inserted;

(*c*) for the words "he may" the words "the Officer Commanding the station or, as the case may be, the Board may" shall be substituted.

22. **Amendment of section 237, Act II of 1924.**—In section 237 of the principal Act,—

(*a*) after the words "Officer Commanding the station", wherever they occur, the words "or the Board" shall be inserted;

(*b*) for the words "as he thinks necessary" the words "as he or it thinks necessary" shall be substituted;

(*c*) for the words "he may" the words "he or, as the case may be, the Board may" shall be substituted.

23. Amendment of section 259, Act II of 1924.—In section 259 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "arrears of any tax and any other money recoverable by a Board under this Act," the words "arrears of any tax, rent on land and buildings and any other money recoverable by a Board or a Military Estates Officer under this Act or the rules made thereunder" shall be substituted;

(*ii*) for the words "tax or money" the words "tax, rent or money" shall be substituted;

(*b*) in sub-section (*2*) after the words "by the Executive Officer" the words "or the Military Estates Officer" shall be inserted.

24. Amendment of section 280, Act II of 1924.—In sub-section (*2*) of section 280 of the principal Act,—

(*a*) after clause (*k*), the following clauses shall be inserted, namely:—

"(*l*) the grant of leave to the members of the Board;

(*m*) the form of notices required to be sent under this Act and the manner of their service."

25. Amendment of section 286A, Act II of 1924.—Section 286A of the principal Act shall be renumbered as sub-section (*1*) of that section and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) The Board may, by a resolution passed in this behalf, delegate to the President, Vice-President, Executive Officer or Health Officer, subject to such conditions, if any, as may be specified in the resolution, all or any of its functions under sub-section (*3*) of section 82, sub-section (*3*), or clause (*b*) of sub-section (*5*) of section 119, section 131, sub-section (*2*) of section 132, section 143, section 161, section 163, section 164, section 168, section 169, section 189, section 190, section 191, section 194, section 195, section 196 or section 197."

STATEMENT OF OBJECTS AND REASONS.

In pursuance of a recommendation of the Conference of the Local Self-Government Ministers of States held on the 7th August, 1948, the Government of India set up the Central Committee on Cantonments under the Chairmanship of Shri S. K. Patil. The Committee *inter alia* reviewed the working of the Cantonments Act, 1924 and after taking into account the views and suggestions of State Governments, Local Bodies, Associations and individuals, made certain recommendations for amending the Act. The amendments proposed in this Bill are mainly based on the recommendations of that Committee. The amendments aim largely at increasing the efficiency of administration of Cantonment Boards and to bring the system of election in line with general principles adopted for Parliamentary and Municipal elections. It is proposed to abolish communal reservation on Boards and also to provide that one person should not be allowed to be a member of two Local Bodies at the same time. Certain consequential changes have also been made as a result of the introduction of adult franchise. Power has been taken by the Government to fill up short term vacancies in the office of the Executive Officer by Military Officers when officers of the Military Land and Cantonment Service are not readily available. Boards have been vested with greater powers in respect of recovery of dues and other matters for the sake of improving the efficiency in the administration. Certain amendments are intended to clarify some doubts about the application of certain sections. The Bill also deals with some minor difficulties disclosed by the working of the Act.

N. GOPALASWAMI.

NEW DELHI;

The 17th July, 1952.

ANNEXURE.

EXTRACTS FROM THE CANTONMENTS ACT, 1924 (II OF 1924).

* * * * * * *

Section 2.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

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(*iv*) "building" means a house, outhouse, stable, latrine, shed, hut or other roofed structure whether of masonry, brick, wood, mud, metal or other material, and any part thereof, and includes a well and a wall (other than a boundary wall not exceeding eight feet in height and not abutting on a street) but does not include a tent or other portable and temporary shelter;

* * * * * * * *

Section 2A.

2A. Rule of construction.—In the application of this Act to any Part B State, any reference to an enactment not in force in that State shall be construed as a reference to the corresponding law in force in the State.

* * * * * * * *

Section 4.

4. Alteration of limits of cantonments.—(*1*) The Central Government may, by notification in the Official Gazette, declare its intention to include within a cantonment any local area situated in the vicinity thereof or to exclude from a cantonment any local area comprised therein.

* * * * * * * *

Section 12.

12. Appointment of Executive Officer.—(*1*) The Executive Officer of every cantonment shall be appointed by the Central Government, or by such person as the Central Government may authorise in this behalf, from the Military Land and Cantonments Service constituted by rules made under section 280:

Provided that an Executive Officer appointed before the commencement of the Cantonments (Amendment) Act, 1936, shall, unless the Central Government otherwise directs in any case, be deemed to have been duly appointed in accordance with this sub-section.

* * * * * * * *

Section 26.

26. Electoral rolls.—

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(*3*) When a cantonment has been divided into wards, or the inhabitants into classes, the electoral roll shall be divided into separate lists for each ward or class, as the case may be.

* * * * * * * *

Section 30.

30. Joint families, etc.—Notwithstanding anything hereinbefore contained, the Central Government may make rules conferring on the manager or representative of an undivided family or of any company or firm or other association or body or on any trustee of any land a right to be enrolled as an elector or to be nominated as a candidate at elections to a Board.

* * * * * * * *

Section 31.

31. Power to make rules regulating elections.—The Central Government may, either generally or specially for any cantonment or group of cantonments, after previous publication, make rules consistent with this Act to regulate all or any of the following matters for the purpose of the holding of elections under this Act, namely:—

(*a*) the division of a cantonment into wards, or of the inhabitants of a cantonment into classes, or both;

(*b*) the determination of the number of members to be elected by each ward or class of persons.

* * * * * * * *

Section 34.

34. Removal of members.—(*1*) The Central Government may remove from a Board any member thereof who—

* * * * * * * *

(*b*) has absented himself for more than three consecutive months from the meetings of the Board and is unable to explain such absence to the satisfaction of the Board; or

* * * * * * * *

Section 43A.

43A. Committee for bazars.—(*1*) Every Board constituted under section 13 in a Class I Cantonment or Class II Cantonment shall appoint a committee consisting of the elected members of the Board, the Health Officer and the Executive Engineer for the administration of such areas in the cantonment as the Central Government may, by notification in the Official Gazette, declare to be bazar areas, and may delegate its powers and duties to such committee in the manner provided in clause (*e*) of sub-section (*1*) of section 44.

* * * * * * * *

Section 73.

73. Notice of transfers.—

* * * * * * * *

(*3*) The notice to be given under this section shall be in such form as the Executive Officer may direct, and the transferee or other person on whom the title devolves shall, if so required, be bound to produce before the Executive Officer any documents evidencing the transfer or devolution.

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Section 103.

103. Obligation to disclose liability.—

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(*2*) If any person, when called upon under sub-section (*1*) to furnish information, neglects to furnish it or furnishes information which is not true to the best of his knowledge or belief, he shall be punishable with fine which may extend to one hundred rupees.

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Section 113.

113. Sanction.—

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(*b*) which involves a value or amount exceeding one hundred rupees,

shall require the sanction of the Board.

* * * * * * * *

Section 114.

114. Execution of contracts.—(*1*) Every contract made by or on behalf of a Board the value or amount of which exceeds fifty rupees, shall be in writing, and every such contract shall, be signed by two members, of whom the President or the Vice-President shall be one, and be countersigned by the Executive Officer and be sealed with the common seal of the Board:

Provided that the Executive Officer may in a case of urgency, with the previous sanction of the President of the Board, execute on behalf of the Board any contract the value or amount of which does not exceed two hundred rupees.

* * * * * * * *

Section 118.

118. Penalty for causing nuisances.—

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(*4*) Any animal found picketed as aforesaid may be removed by any officer or servant of the Board or by any police officer to a pound as if the animal had been found straying.

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Section 181.

181. Power of Board to sanction or refuse.—

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(*6*) Where the Board neglects or omits, for one month after the receipt of a valid notice, to make and to deliver to the person who has given the notice any order of any nature specified in this section, and such person thereafter by a written communication sent by registered post to the Board calls the attention of the Board to the neglect or omission, then, if such neglect or omission

continues for a further period of fifteen days from the date of such communication the Board shall be deemed to have given sanction to the erection or re-erection, as the case may be, unconditionally:

Provided that, in any case to which the provisions of sub-section (*3*) apply, the period of one month herein specified shall be reckoned from the date on which the Board has received the report referred to in that sub-section.

* * * * * * *

Section 185.

185. Power to stop erection or re-erection or to demolish.—(*1*) A Board may, at any time, by notice in writing, direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the Board considers that such erection or re-erection is an offence under section 184, and may in any such case or in any other case in which the Board considers that the erection or re-erection of a building is an offence under section 184, within six months of the completion of such erection or re-erection in like manner direct the alteration or demolition as it thinks necessary, of the building or any part thereof, so erected or re-erected:

Provided that the Board may, instead of requiring the alteration or demolition of any such building or part thereof, accept by way of composition such sum as it thinks reasonable:

Provided further that the Board shall not, without the previous concurrence of the Officer Commanding-in-Chief, the Command, accept any sum by way of composition under the foregoing proviso in respect of any building on land which is not under the management of the Board.

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Section 200.

200. Levy of stallages, rents and fees.—A Board may—

(*a*) charge for the occupation or use of any stall, shop, standing, shed or pen in a public market, or public slaughter-house, or for the right to expose goods for sale in a public market, or for weighing or measuring goods sold therein, or for the right to slaughter animals in any public slaughter-house, such stallages, rents and fees as it thinks fit; or

(*b*) with the sanction of the Officer Commanding-in-Chief, the Command, farm the stallages, rents and fees leviable as aforesaid or any portion thereof for any period not exceeding one year at a time; or

(*c*) put up to public auction, or with the sanction of the Officer Commanding-in-Chief, the Command, dispose of by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a public market or public slaughter-house for such term and on such conditions as it thinks fit.

* * * * * * * *

Section 210.

210. Licences required for carrying on of certain occupations.—

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(*2*) A licence granted under sub-section (*1*) shall be valid until the end of the year in which it is issued and the grant of such licence shall not be

withheld by the Board unless it has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to the public.

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Section 235.

235. Power to remove brothels and prostitutes.—The Officer Commanding the station may, on receiving information that any building in the cantonment is used as a brothel or for purposes of prostitution, by order in writing setting forth the substance of the information received, summon the owner, lessee, tenant or occupier of the building to appear before him either in person or by an authorised agent, and, if the Officer Commanding the station is then satisfied as to the truth of the information, he may, by order in writing, direct the owner, lessee, tenant or occupier, as the case may be, to discontinue such use of the building within such period as may be specified in the order.

* * * * * * * *

Section 237.

237. Removal of lewd persons from cantonment.—If the Officer Commanding the station is, after such inquiry as he thinks necessary, satisfied that any person residing in or frequenting the cantonment is a prostitute or has been convicted of an offence under section 236, or of the abetment of such an offence, he may cause to be served on such person an order in writing requiring such person to remove from the cantonment within such time as may be specified in the order, and prohibiting such person from re-entering it without the permission in writing of the Officer Commanding the station.

* * * * * * * *

Section 259.

259. Method of recovery.—(*1*) Notwithstanding anything elsewhere contained in this Act, arrears of any tax and any other money recoverable by a Board under this Act may be recovered together with the cost of recovery either by suit or, on application to a Magistrate having jurisdiction in the cantonment or in any place where the person from whom such tax or money is recoverable may for the time being be residing, by the distress and sale of any movable property of, or standing timber, growing crops or grass belonging to, such person which is within the limits of such Magistrate's jurisdiction, and shall, if payable by the owner of any property as such, be a charge on the property until paid:

Provided that the tools of artisans shall be exempt from such distress or sale.

(*2*) An application to a Magistrate under sub-section (*1*) shall be in writing and shall be signed by the President or Vice-President of the Board or by the Executive Officer, but shall not require to be personally presented.

* * * * * * *

By order of the Governor,

S. K. D. GUPTA, Secy.

egistered No. C207

The Calcutta Gazette

THURSDAY, NOVEMBER 13, 1952

ART VI—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 16th uly, 1952:—

BILL No. 78 OF 1952.

Bill to make provision for employment and training for employment and to establish a comprehensive youth employment service.

WHEREAS it is expedient to make provision relating to employment and raining for employment and to provide for the establishment of a omprehensive Youth Employment Service and for purposes connected herewith;

BE it enacted by Parliament as follows:—

1. Short title, extent and commencement.—(*1*) This Act shall be called he Training and Employment Act, 195 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government ıay, by notification in the official Gazette, appoint in this behalf.

2. Providing proper facilities for employment of persons.—Subject to he provisions of this Act, it shall be the duty of the Ministries of Labour nd Education—

(*i*) to provide such facilities and service as may be considered expedient for the purpose of assisting persons to select, to fit themselves for and to obtain and retain, employment suitable to their age and capacity;

(*ii*) to assist employers to obtain suitable employees; and

(*iii*) generally to promote employment in accordance with the requirements of the community so as to attain thereby a higher standard of living for the whole community.

3. Appointment of Advisory Committees.—(*1*) The Ministries concerned may, for the purpose of advising and assisting them in the discharge of their functions, appoint such separate or joint Advisory Committees as they may think fit for the whole of India or any part thereof.

(*2*) The Ministries of Labour and Education shall make regulations with respect to the constitution and functions of any of the Advisory Committees appointed under sub-section (*1*).

4. Establishment of Employment Exchanges.—(*1*) The Ministry of Labour may establish and maintain in such places as it thinks fit Employment Exchanges, that is to say offices or places for the collection and furnishing of information either by the keeping of registers or otherwise respecting persons who seek to engage employees and persons who seek employment.

(2) Without prejudice to sub-section (1), the Ministries may make such arrangements which they deem expedient for the collection and furnishing of information for providing advice, guidance and other services to persons of any class (whether employed or not) for any of the purposes mentioned in section 2 of this Act.

5. Provision of Funds.—The Minister or Ministers concerned may provide in the annual budget such sums of money as may be needed for the fulfilment of the purposes of this Act.

6. Contribution towards the expenditure incurred by private bodies or any local authority.—The Minister or Ministers may defray or contribute towards the expenditure incurred by any organization, society, or Provincial State, or any other local authority whatsoever, towards their funds provided the Ministries are convinced that these contributions shall be spent for the purposes mentioned in section 2 of this Act.

7. Management of Employment Exchanges.—The Ministers may make regulations with respect to the management of all Employment Exchanges provided by them under this Act and otherwise with respect to the exercise of their functions thereunder.

8. Right of persons to refuse employment found through any Employment Exchange.—No person shall be disqualified or otherwise prejudiced in respect of facilities provided at any Employment Exchange on account of his refusal to accept employment found for him through an Employment Exchange if the ground of his refusal is that a trade dispute which affects the trade exists or that the wages offered are lower than those current in the trade in the district where the employment is found.

9. Provision for Compulsory Training Courses.—The Minister or Ministers may provide such training courses for persons whether employed or not and who are above the age of compulsion, as he or they thinks or think necessary or expedient for increasing the efficiency, knowledge, technical skill or capacity of such persons. Either of the Ministers may, by order in writing, compel any child or young person declared to be destitute, delinquent or uncared for under any law for the time being in force to join any training course for such length of time as may be indicated, for the purpose either for getting trained or for any other purpose.

10. Maintenance of Register of persons seeking employment and publication of figures of persons employed.—It shall be the duty of the Government to maintain in detail a Register of all persons who are seeking employment and the figures of persons employed shall be published in the official Gazette at least once in two weeks at regular intervals.

11. Implementation of schemes of training in co-operation with local authorities or private bodies.—Any scheme of training or employment may be worked through, or in co-operation with, any State Government or local authority or a recognized private organisation.

STATEMENT OF OBJECTS AND REASONS.

Although Employment Exchanges have come into being as a result of the war and they have since been continued, there remains much to be done in giving them a proper shape and status in the social and economic life of the country. In the second place, there is a great need of increased facilities of training in the various arts, crafts and industries. Although the Ministry of Labour is attending to this, there is lack of co-ordination between this Ministry and Ministry of Education. In fact the Ministry of Education appears to have nothing to do with this matter. The Bill, therefore, seeks to remedy this unsatisfactory state of affairs. The third object in view is to place greater emphasis on this important work and to arouse governmental as well as popular interest.

P. S. DESHMUKH.

M. N. KAUL, Secy.

Registered No. C207

The Calcutta Gazette

THURSDAY, NOVEMBER 20, 1952

PART VI.—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

GOVERNMENT OF INDIA.

House of the People.

The following Bill was introduced in the House of the People on 16th July, 1952:—

BILL No. 79 OF 1952.

A Bill further to amend the Constitution of India.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Constitution (Amendment) Act, 19 .

2. **Amendment of article 291.**—In article 291 of the Constitution,—

(*i*) in sub-clause (b) of clause (1) for the words "shall be exempt from all taxes on income" the words "shall not be exempt from any tax on income," shall be substituted; and

(*ii*) the following new clause shall be added, namely:—

"(3) Notwithstanding anything in the Constitution, Parliament shall have the power to revise, or terminate, at any time, any covenant or agreement referred to in clause (1) of the Article 291, by passing a Bill to that effect by a simple majority."

3. **Insertion of article 362A.**—After article 362 of the Constitution, the following article shall be inserted, namely:—

"362A. *Ratification of covenants and agreements entered into by the Nizam of Hyderabad.*—Notwithstanding anything in this Constitution, all the covenants or agreements entered into by the Nizam of Hyderabad with respect to his personal rights, privileges and dignities, shall be subject to the ratification by the Hyderabad State Legislative Assembly."

STATEMENT OF OBJECTS AND REASONS

It is desirable that the amount of privy purses of Indian Rulers should be taxed to have more funds for nation-building activities.

2. Parliament must, therefore, be vested with the power in any emergency, if it thinks proper, to stop the payment of privy purses to the Indian Rulers by passing a Bill.

3. Similarly if the Hyderabad State Legislature wishes to revise the covenants and agreements and decide the future of the Nizam, it should have the opportunity to do so.

Hence this Bill.

C. MADHAO REDDI.

M. N. KAUL, Secy.

Registered No. C207

The Calcutta Gazette

THURSDAY, NOVEMBER 27, 1952.

PART VI.—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 16th July, 1952:—

BILL No. 69 OF 1952.

A *Bill to provide for punishment of those found guilty of adulteration of foodstuffs.*

BE it enacted by Parliament as follows:—

1. **Short title, extent and commencement.**—(*1*) This Act may be called the Punishment for Adulteration of Foodstuffs Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. **Definition.**—"Foodstuffs" for the purpose of this Act shall mean and include all kinds of grains, pulses, wheat flour, maida, gur, sugar; oil, milk, ghee and other milk products; tinned food, preserves, pickles, and prepared food including sweets, savouries and other ready-made food cooked and served in hotels, restaurants, refreshment rooms and other such public eating houses.

3. **Punishment for Adulteration of foodstuffs.**—(*1*) Any person, whether producer, preparer, dealer, server or seller of any foodstuffs found guilty of adulteration, so as to deteriorate the quality of article concerned, or passing of any inferior article for superior one of the same category or selling under false name or description any article of foodstuffs shall be prosecuted and if found guilty shall be punishable with imprisonment of either description for a period not exceeding two years or with fine not exceeding ten times the value of the adulterated article transacted in or rupees five thousand, whichever amount is higher or with both imprisonment and fine.

(*2*) No prosecution under this Act shall be commenced except by an officer appointed especially in that behalf and subject to the sanction of the Government of the State concerned.

STATEMENT OF OBJECTS AND REASONS.

The evil of adulteration, especially with regard to foodstuffs and al eatable materials has become so rampant that it is practically impossible wit regard to certain materials to get pure things which are so essential for th health of the people. The result is that people become victims of all sort of diseases because of adulterated and impure food. It has, therefore become necessary to provide for deterrent punishment for persons foun guilty of offences of such acts.

B. P. JHUNJHUNWALA.

M. N. KAUL, Secy.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 1st August 1952:—

BILL* No. 90 OF 1952.

A Bill to provide for the regulation of certain matters relating to forwar contracts, the prohibition of options in goods and for matters connecte therewith.

BE it enacted by Parliament as follows:—

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(*1*) This Act may be called th Forward Contracts (Regulation) Act, 1952.

(*2*) It extends to the whole of India except the State of Jammu an Kashmir.

(*3*) It shall come into force on such date or dates as the Central Gover ment may, by notification in the Official Gazette, appoint and different date may be appointed for different provisions of this Act, for different States c areas, and for different goods or classes of goods.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "association" means any body of individuals, whether incorporated c not, constituted for the purpose of regulating and controlling th business of the sale or purchase of any goods;

(*b*) "Commission" means the Forward Markets Commission establishe under section 3;

(*c*) "forward contract" means a contract for the delivery of goods at future date and which is not a ready delivery contract;

(*d*) "goods" means every kind of movable property other than actionabl claims, money and securities;

(*e*) "Government security" means a Government security as defined i the Public Debt Act, 1944 (XVIII of 1944);

(*f*) "non-transferable specific delivery contract" means a specific deliver contract, the rights or liabilities under which or under any deliver order, railway receipt, bills of lading, warehouse receipt or any oth document of title relating thereto are not transferable;

*The President has, in pursuance of clause (3) of article 117 of the Constitution of Indi recommended to the House of the People the consideration of the Bill.

(*g*) "option in goods" means an agreement, by whatever name called, for the purchase or sale of a right to buy or sell, or a right to buy and sell, goods in future, and includes a *teji*, a *mandi*, a *teji-mandi*, a *galli*, a put, a call or a put and call in goods;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "ready delivery contract" means a contract which provides for the delivery of goods and the payment of price therefor,. either immediately or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise;

(*j*) "recognised association" means an association which is for the time being recognised by the Central Government under section 6;

(*k*) "rules" with reference to rules relating in general to the constitution and management of an association, includes in the case of an incorporated association its memorandum and articles of association;

(*l*) "securities" includes shares, scrips, stocks, bonds, debentures, debenture-stocks, or other marketable securities of a like nature in or of any incorporated company or other body corporate and also Government securities;

(*m*) "specific delivery contract" means a forward contract which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned;

(*n*) "transferable specific delivery contract" means a specific delivery contract which is not a non-tranferable specific delivery contract.

CHAPTER II.

THE FORWARD MARKETS COMMISSION.

3. Establishment and constitution of the Forward Markets Commission.— (*1*) The Central Government may, by notification in the Official Gazette, establish a Commission to be called the Forward Markets Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the Commission by or under this Act.

(*2*) The Commission shall consist of not less than two but not exceeding three members appointed by the Central Government of whom the Chairman and the Secretary (also to be appointed by the Central Government) shall be full-time members and the third member, if any, full-time or part-time as the Central Government may direct:

Provided that one of the members of the Commission shall be an officer of the Central Government and another a person having knowledge of forward markets in India.

(*3*) No person shall be qualified for appointment as, or for continuing to be, a member of the Commission if he has, directly or indirectly, any such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission, and every member shall, whenever required by the Central Government so to do, furnish to it such information as it may require for the purpose of securing compliance with the provisions of this sub-section.

(*4*) No member of the Commission shall hold office for a period of more than three years from the date of his appointment, and a member relinquishing his office on the expiry of his term shall be eligible for reappointment.

(*5*) The other terms and conditions of service of members of the Commission shall be such as may be prescribed.

4. Functions of the Commission.—The functions of the Commission shall be—

(*a*) to advise the Central Government in respect of the recognition of, or the withdrawal of recognition from, any association or in respect of any other matter arising out of the administration of this Act;

(*b*) to keep forward markets under observation and to draw the attention of the Central Government or of any other prescribed authority to any development taking place in, or in relation to, such markets which, in the opinion of the Commission, is of sufficient importance to deserve the attention of the Central Government and to make recommendations thereon;

(*c*) to collect and whenever the Commission thinks it necessary publish information regarding the trading conditions in respect of goods to which any of the provisions of this Act is made applicable, including information regarding supply, demand and prices, and to submit to the Central Government periodical reports on the operation of this Act and on the working of forward markets relating to such goods;

(*d*) to make recommendations generally with a view to improving the organisation and working of forward markets;

(*e*) to undertake the inspection of the accounts and other documents of any recognised association when directed by the Central Government; and

(*f*) to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed.

CHAPTER III.

RECOGNISED ASSOCIATIONS.

5. Application for recognition of associations.—(*1*) Any association concerned with the regulation and control of forward contracts which is desirous of being recognised for the purposes of this Act may make an application in the prescribed manner to the Central Government.

(*2*) Every application made under sub-section (*1*) shall be accompanied by a copy of the bye-laws for the regulation and control of forward contracts and also a copy of the rules relating in general to the constitution of the association, and, in particular, to—

(*a*) the governing body of such association, its constitution and powers of management and the manner in which its business is to be transacted;

(*b*) the powers and duties of the office bearers of the association;

(*c*) the admission into the association of various classes of members, the qualifications of members, and the exclusion, suspension, expulsion and readmission of members therefrom or thereinto;

(*d*) the procedure for registration of partners as members of the association and the nomination and appointment of authorised representatives and clerks.

6. Grant of recognition to association.—(*1*) If the Central Government is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as may be required, that the rules and bye-laws of the association are suitable in the interest of the trade and are in the public interest, it may grant recognition to the association in such form as may be prescribed.

(*2*) Before granting recognition under sub-section (*1*), the Central Government may, by order, direct,—

(*a*) that there shall be no limitation on the number of members of the association or that there shall be such limitation on the number of members as may be specified;

(*b*) that the association shall provide for the appointment by the Central Government of a person, whether a member of the association or not, as its representative on, and of not more than three persons representing interests not directly represented through membership of the association as member or members of, the governing body of such association and may require the association to incorporate in its rules any such direction and the conditions, if any, accompanying it.

(*3*) No rules of a recognised association shall be amended except with the approval of the Central Government.

(*4*) Every grant of recognition under this section shall be published in the Official Gazette.

7. Withdrawal of recognition.—If the Central Government is of opinion that any recognition granted to an association under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may, after giving a reasonable opportunity to the association to be heard in the matter, withdraw, by notification in the Official Gazette, the recognition granted to the said association:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

8. Power of Central Government to call for periodical returns or direct inquiries to be made.—(*1*) Every recognised association shall furnish to the Central Government such periodical returns relating to its affairs or the affairs of its members as may be prescribed.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), where the Central Government considers it expedient so to do, it may, by order in writing,—

(*a*) call upon a recognised association to furnish in writing such information or explanation relating to its affairs or the affairs of any of its members as the Central Government may require, or

(*b*) appoint one or more persons to make an inquiry in relation to the affairs of such association or the affairs of any of its members and submit a report of the result of such inquiry to the Central Government within such time as may be specified in the order or, in the alternative, direct the inquiry to be made, and the report to be submitted, by the governing body of such association acting jointly with one or more representatives of the Central Government; and

(*c*) direct the Commission to inspect the accounts and other documents of any recognised association and submit its report thereon to the Central Government.

(*3*) Where an inquiry in relation to the affairs of a recognised association or the affairs of any of its members has been undertaken under sub-section (*2*)—

(*a*) every director, manager, secretary or other officer of such asociation,

(*b*) every member of such association, and

(*c*) if the member of the association is a firm, every partner, manager, secretary or other officer of the firm,

shall be bound to produce before the authority making the inquiry, all such books, accounts, correspondence and other documents in his custody or power relating to, or having a bearing on the subject-matter of, such inquiry and also to furnish the authority with any such statement or information relating thereto as may be required of him, within such time as may be specified.

9. Furnishing of annual reports to the Central Government by recognised associations.—(*1*) Every recognised association shall furnish to the Central Government a copy of its annual report.

(*2*) Such annual report shall contain such particulars as may be prescribed.

10. Power of Central Government to direct rules to be made or to make rules.—(*1*) Whenever the Central Government considers it expedient so to do, it may, by order in writing, direct any recognised association to make any rules or to amend any rules made by the recognised association in respect of all or any of the matters specified in sub-section (*2*) of section 5, other than the matter specified in clause (*b*) of sub-section (*2*) of section 6 within a period not exceeding six months from the date of the order.

(*2*) If any recognised association, against whom an order is issued by the Central Government under sub-section (*1*), fails or neglects to comply with such order within the period specified in the said sub-section, the Central Government may make the rules or amend the rules made by the recognised association, as the case may be, either in the form specified in the order or with such modification thereof as may be agreed upon between the association and the Central Government.

(*3*) Where, in pursuance of sub-section (*2*), any rules have been made or amended, the rules so made or amended shall be published in the Official Gazette and on such publication shall, notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or any other law for the time being in force, have effect as if they had been made or amended by the recognised association concerned.

11. Power of recognised association to make bye-laws.—(*1*) Any recognised association may, subject to the previous approval of the Central Government, make bye-laws for the regulation and control of forward contracts.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for—

(*a*) the opening and closing of markets and the regulation of the hours of trade;

(*b*) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of, and payment for, goods, the passing on of delivery orders and for the regulation and maintenance of such clearing house;

(*c*) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(*d*) fixing, altering or postponing days for settlement;

(*e*) determining and declaring market rates, including opening, closing, highest and lowest rates for goods;

(*f*) the terms, conditions and incidents of contracts including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(*g*) regulating the entering into, making, performance, rescission and termination of contracts, including contracts between members or between a commission agent and his constituent, or between a broker and his constituent, or between a member of the recognised association and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of commission agents and brokers who are not parties to such contracts;

(*h*) the admission and prohibition of specified classes or types of goods or of dealings in goods by a member of the recognised association;

(*i*) the method and procedure for the settlement of claims or disputes including the settlement thereof by arbitration;

(*j*) the levy and recovery of fees, fines and penalties;

(*k*) the regulation of the course of business between parties to contracts in any capacity;

(*l*) the fixing of a scale of brokerage and other charges;

(*m*) the making, comparing, settling and closing of bargains;

(*n*) the regulation of fluctuations in rates and prices;

(*o*) the emergencies in trade which may arise and the exercise of powers in such emergencies including the power to fix maximum and minimum prices;

(*p*) the regulation of dealings by members for their own account;

(*q*) the limitations on the volume of trade done by any individual member;

(*r*) the obligation of members to supply such information or explanation and to produce such books relating to their business as the governing body may require.

(*3*) The bye-laws made under this section may—

(*a*) specify the bye-laws the contravention of any of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (*2*) of section 15;

(*b*) provide that the contravention of any of the bye-laws shall—

(*i*) render the member concerned liable to fine; or

(*ii*) render the member concerned liable to expulsion or suspension from the recognised association or to any other penalty of a like nature not involving the payment of money.

(*4*) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and when approved by the Central Government, shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised association is situate:

Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication, in any case.

12. Power of Central Government to make or amend bye-laws of recognised associations.—(*1*) The Central Government may, either on a request in writing received by it in this behalf from the governing body of a recognised association, or if in its opinion it is expedient so to do, make bye-laws for all or any of the matters specified in section 11 or amend any bye-laws made by such association under that section.

(*2*) Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Official Gazette and also in the Official Gazette of the State in which the principal office of the recognised association is situate, and on such publication the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised association.

(*3*) Notwithstanding anything contained in this section, where the governing body of a recognised association objects to any bye-laws made or amended under this section by the Central Government on its own motion, it may, within six months of the publication thereof under sub-section (*2*), apply to the Central Government for a revision thereof, and the Central Government may, after giving a reasonable opportunity to the governing body of the association to be heard in the matter, revise the bye-laws so made or amended, and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published in the Official Gazette.

(*4*) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication:

Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication.

13. Power of Central Government to supersede governing body of recognised association.—(*1*) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised association should be superseded, then notwithstanding anything contained in this Act or in any other law for the time being in force, the Central Government may, and after giving a reasonable opportunity to the governing body of the recognised association concerned to show cause why it should not be superseded, by notification in the Official Gazette, declare the governing body of such association to be superseded for such period not exceeding six months as may be specified in the notification, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and where more persons than one are appointed may appoint one of such persons to be the chairman and another of such persons to be the vice-chairman.

(*2*) On the publication of a notification in the Official Gazette under sub-section (*1*), the following consequences shall ensue, namely:—

(*a*) the members of the governing body which has been superseded shall as from the date of the notification of supersession, cease to hold office as such members;

(*b*) the person or persons appointed under sub-section (*1*) may exercise and perform all the powers and duties of the governing body which has been superseded;

(*c*) all such property of the recognised association as the person or persons appointed under sub-section (*1*) may, by order in writing specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person or persons:

(*3*) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the association whose governing body is superseded under sub-section (*1*), the person or persons appointed under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section, and the Central Government may, from time to time, by like notification vary such period.

(*4*) On the determination of the period of office of any person or persons appointed under this section the recognised association shall forthwith reconstitute a governing body in accordance with its rules:

Provided that until a governing body, is so reconstituted, the person or persons appointed under sub-section (*1*) shall, notwithstanding anything contained in sub-section (*1*), continue to exercise and perform their powers and duties.

(*5*) On the reconstitution of a governing body under sub-section (*4*), all the property of the recognised association which had vested in, or was in the possession of, the person or persons appointed under sub-section (*1*) shall vest or revest, as the case may be, in the governing body so reconstituted.

14. Power to suspend business of recognised associations.—If in the interest of the trade or in the public interest the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, direct a recognised association to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and may if, in the opinion of the Central Government, the interest of the trade or the public interest so requires by like notification extend the said period from time to time.

CHAPTER IV.

FORWARD CONTRACTS AND OPTION IN GOODS.

15. Forward contracts in notified goods illegal or void in certain circumstances.—(*1*) The Central Government may, by notification in the Official Gazette, declare this section to apply to such goods or class of goods and in such areas as may be specified in the notification, and there upon, subject to the provisions contained in section 18, every forward contract for the sale or purchase of any goods specified in the notification which is entered into in the area specified therein otherwise than between members of a recognised association or through or with any such member shall be illegal.

(*2*) Any forward contract in goods entered into in pursuance of sub-section (*1*) which is in contravention of any of the bye-laws specified in this behalf under clause (*a*) of sub-section (*3*) of section 11 shall be void—

(*i*) as respects the rights of any member of the recognised association who has entered into such contract in contravention of any such bye-law, and also.

(*ii*) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(*3*) Nothing in sub-section (*2*) shall affect the right of any person other than a member of the recognised association to enforce any such contract or to recover any sum under or in respect of such contract:

Provided that such person had no knowledge that such transaction was in contravention of any of the bye-laws specified under clause (*a*) of sub-section (*3*) of section 11.

(*4*) No member of a recognised association shall, in respect of any goods specified in the notification under sub-section (*1*), enter into any contract on his own account with any person other than a member of the recognised association, unless he has secured the consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he has bought or sold the goods, as the case may be, on his own account:

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure a written confirmation by such person of such consent or authority within three days from the date of such contract:

Provided further that in respect of any outstanding contract entered into by a member with a person other than a member of the recognised association, no consent or authority of such person shall be necessary for closing out in accordance with the bye-laws the outstanding contract, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he has bought or sold the goods, as the case may be, on his own account.

16. Consequences of notification under section 15.—Where a notification has been issued under section 15, then notwithstanding anything contained in any other law for the time being in force or in any custom, usage or practice of the trade or the terms of any contract or the bye-laws of any association concerned relating to any contract,—

(*a*) every forward contract for the sale or purchase of any goods specified in the notification, entered into before the date of the notification and remaining to be performed after the said date and which is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Central Government may fix in this behalf, and different rates may be fixed for different classes of such contracts;

(*b*) all differences arising out of any contract so deemed to be closed out shall be payable on the basis of the rate fixed under clause (*a*) and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods.

17. Power to prohibit forward contracts in certain cases.—(*1*) The Central Government may, by notification in the Official Gazette, declare that no person shall, save with the permission of the Central Government, enter into any forward contract for the sale or purchase of any goods or class of goods specified in the notification and to which the provisions of section 15 have not been made applicable, except to the extent and in the manner, if any, as may be specified in the notification.

(*2*) All forward contracts in contravention of the provisions of sub-section (*1*) entered into after the date of publication of the notification thereunder shall be illegal.

(*3*) Where a notification has been issued under sub-section (*1*), the provisions of section 16 shall, in the absence of anything to the contrary in the notification, apply to all forward contracts for the sale or purchase of any goods specified in the notification entered into before the date of the notification and remaining to be performed after the said date as they apply to all forward contracts for the sale or purchase of any goods specified in the notification under section 15.

18. Chapters III and IV to apply to non-transferable specific delivery contracts only in certain cases.—(*1*) Where a notification under section 15 has been issued in respect of any goods or class of goods, the Central Government shall, by a like notification, define the area in which a recognised association

may regulate and control non-transferable specific delivery contracts in respect of such goods or class of goods and the provisions of this Chapter and of Chapter III shall apply to non-transferable specific delivery contracts only in such areas and only in respect of such goods or class of goods.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area to which the provisions of this Chapter and of Chapter III do not apply, it may, by notification in the Official Gazette, declare that all or any of the provisions of the said Chapters shall apply to non-transferable specific delivery contracts in such area and in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply.

19. Prohibition of options in goods.—(1) Notwithstanding anything contained in this Act or any other law for the time being in force, all options in goods entered into after the date on which this section comes into force shall be illegal.

(2) Any option in goods which has been entered into before the date on which this section comes into force and which remains to be performed, whether wholly or in part, after the said date shall to that extent become void.

CHAPTER V.

PENALTIES AND PROCEDURE.

20. Penalty for contravention of certain provisions of Chapter IV.—(1) Any person who enters into any forward contract or any option in goods in contravention of any of the provisions contained in sub-section (1) of section 15, section 17 or section 19 shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Any person who enters into forward contract in contravention of the provisions contained in sub-section (3) of section 15 shall, on conviction, be punishable with fine.

21. Penalty for owning or keeping place used for entering into forward contracts in goods.—Any person who—

(a) owns or keeps a place other than that of a recognised association which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes, or

(b) without the permission of the Central Government, organises, or assists in organising, or becomes a member of, any association, other than a recognised association, for the purpose of assisting in, entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or

(c) manages, controls or assists in keeping any place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act or at which such forward contracts are recorded or adjusted, or rights or liabilities arising out of such forward contracts are adjusted, regulated or enforced in any manner whatsoever, or

(*d*) not being a member of a recognised association, wilfully represents to, or induces, any person to believe that he is a member of a recognised association or that forward contracts can be entered into or made or performed, whether wholly or in part, under this Act through him, or

(*e*) not being a member of a recognised association or his agent authorised as such under the rules or bye-laws of such association, canvasses, advertises or touts in any manner, either for himself or on behalf of any other person, for any business connected with forward contracts in contravention of any of the provisions of this Act, or

(*f*) joins, gathers, or assists in gathering at any place, other than the place of business specified in the bye-laws of a recognised association, any person or persons for making bids or offers or for entering into or making or performing any forward contracts in contravention of any of the provisions of this Act,

shall, on conviction, be punishable with imprisonment which may extend to two years, or with fine, or with both.

22. Offences by companies.—(*1*) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

23. Certain offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any offence punishable under sub-section (*1*) of section 20 or section 21 shall be deemed to be a cognizable offence within the meaning of that Code.

24. Jurisdiction to try offences under this Act.—No court inferior to that of a presidency magistrate or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.

CHAPTER VI.

MISCELLANEOUS.

25. Advisory Committee.—For the purpose of advising the Central Government in relation to any matter concerning the operation of this Act, the Central Government may establish an advisory committee consisting of such number of persons as may be prescribed.

26. Power to delegate.—The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may, in such circumstances and subject to such conditions, if any, as may be specified, be exercised by such officer or authority, including any State Government or officers or authorities thereof as may be specified in the direction.

27. Power to exempt.—The Central Government may, by notification in the Official Gazette, exempt, subject to such conditions and in such circumstances and in such areas as may be specified in the notification, any contract or class of contracts from the operation of all or any of the provisions of this Act.

28. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the terms and conditions of service of members of the Commission;

(*b*) the manner in which applications for recognition may be made under section 5 and the levy of a fee in respect thereof;

(*c*) the manner in which any inquiry for the purpose of recognising any association may be made and the form in which recognition shall be granted;

(*d*) the particulars to be contained in the annual reports of recognised associations;

(*e*) the manner in which the bye-laws to be made, amended or revised under this Act shall, before being so made, amended or revised, be published for criticism;

(*f*) the constitution of the advisory committee established under section 25, the terms of office of and the manner of filling vacancies among members of the committee; the interval within which meetings of the advisory committee may be held and the procedure to be followed at such meetings; and the matters which may be referred by the Central Government to the advisory committee for advice;

(*g*) any other matter which is to be or may be prescribed.

STATEMENT OF OBJECTS AND REASONS.

Forward trading, which normally plays a useful part in tempering price fluctuations, tends in certain situations to exaggerate such fluctuations to the detriment of the interests of producers as well as consumers. During the war and immediately thereafter, the Central Government issued orders under Rule 81 of the Defence of India Rules, prohibiting forward trading in commodities, such as foodgrains, oil-seeds, oil-cakes, vegetable oils, raw cotton, spices, sugar and bullion. After the Defence of India Act lapsed, orders in respect of foodgrains, edible oil-seeds and oils, raw cotton and spices were kept in force under the Essential Supplies (Temporary Powers) Act, 1946, and similar orders about cotton-seed and sugar were also issued later under this Act. It was only in the case of raw cotton that a general exemption was granted with respect to forward trading conducted under the auspices of the East India Cotton Assocation, Bombay.

Among the States, Bombay is the only one which has adopted a comprehensive scheme for the regulation of forward trading under the Bombay Forward Contracts Control Act. That Act has been brought into force mainly to control forward trading in cotton, bullion and oil-seeds.

Under the Constitution, the subject of "stock exchanges and futures markets" is included in the Union list. Consequently, the State Legislatures are no longer competent to enact any fresh legislation with regard to forward markets, and unless Central legislation on this subject is enacted, the resulting lacuna may prevent desirable action being taken, when needed. When the Central Act comes into force, the existing State Acts will cease to operate to the extent to which they are inconsistent with the Central Act.

In February, 1950, a draft Bill on this subject was circulated to the State Governments, the Reserve Bank of India, Chambers of Commerce and various other interests concerned. In July, 1950, the draft Bill was referred to an Expert Committee under the Chairmanship of Shri A. D. Shroff, and was revised in the light of the Committee's recommendations. The Government of India also accepted in principle the Committee's recommendations in regard to the practical operation of this measure, though their application to individual cases would have to be decided in the light of experience and the circumstances of each case.

A Bill was introduced in the Provisional Parliament on 19th December, 1950, and was referred by it to a Select Committee on 24th April, 1951. The Select Committee's Report, which was submitted on 20th August, 1951, could not be considered by the Provisional Parliament before it was prorogued and the Bill lapsed. This Bill as now introduced is largely in the form recommended by the Select Committee, but certain alterations have been made therein as a result of further consideration.

The Bill provides for the regulation of forward trading and the prohibition of options in goods. Transactions on Stock Exchanges have been excluded, since the problem of regulating Stock Exchanges have some special features of its own and can best be treated separately. It is proposed to prohibit options altogether, since they are considered to be an undesirable form of speculation.

The regulatory provisions of this Act will be extended by notification to different classes of goods and to different areas as and when necessary. The main principle underlying these provisions is that forward contracts should be allowed to be entered into only in accordance with the rules and bye-laws of a recognised association. The rules and bye-laws will be subject to the approval of the Central Government who will also have the power to make such rules and bye-laws. Provision has been made for the appointment by the Central Government of one person as its own representative and not more than three persons to represent interests not directly represented through the membership of the association, as members of the governing body of a recognised association. The Central Government will also have the powers to order an inquiry into the affairs of a recognised association or those of any of its members, and to direct the Forward Markets Commission to inspect the accounts and other documents of the Association. In emergencies, the Central Government may have to suspend the business of a recognised association, and in certain extreme cases, to supersede the governing body of a recognised association for a period ont exceeding six months, or even to withdraw recognition. It has been provided that the provisions of this Act will apply to non-transferable specific delivery contracts only in certain areas to be notified by the Central Government.

In order to assist the Central Government in the administration of the Act, it is considered desirable that a commission, to be called "The Forward Markets Commission" should be established. Provision has also been made for the establishment of an Advisory Committee to advise the Central Government on any matter concerning the operation of the Act.

T. T. KRISHNAMACHARI.

NEW DELHI;
The 25th July, 1952.

Notes on Clauses.

Clause 2.—Forward contracts are of three kinds: futures contracts, transferable specific delivery contracts and non-transferable specific delivery contracts. It will be seen from clause 2(*c*) read with clause 18 that the scheme of regulation embodied in this Bill applies to all the three types of contracts. Transferable specific delivery contracts are included within the purview of this Bill, because in many trades such types of contracts can also be used as futures contracts for all practical purposes. Government will have the power, however, under clause 27 to exempt transferable specific delivery contracts, when their inclusion is likely to cause unnecessary hardship or inconvenience to the trade concerned. In regard to non-transferable spicific delivery contracts, the regulatory provisions of the Bill will be made applicable only in such areas and only in respect of such goods or class of goods as are notified by the Central Government. Sub-clause (*2*) of clause 18, however, empowers the Central Government to extend the application of the regulatory provisions to non-transferable specific delivery contracts in any area to which they do not apply.

Clauses 3 and 4.—In order to assist the Central Government in the administration of the Act and to provide for a study of the problems relating to forward markets, it is considered desirable that a commission to be called the "Forward Markets Commission", should be established. The Commission will also assist the Central Government in co-ordinating the action taken and policies pursued by the various authorities to whom the Central Government may have to delegate some of the powers conferred upon it by this Act.

Clauses 5, 6 and 7 provide for the grant of recognition to and withdrawal of recognition from associations concerned with the regulation and control of forward contracts. Recognition will be granted only to a limited number of associations. Before granting recognition, care will be taken to see that the rules of admission do not exclude any section of the trade whose participation is necessary or desirable in the interests of the trade. Provision is also made for securing Government representation on the governing bodies of recognised associations.

Clause 8 empowers the Central Government—

(*a*) to call upon a recognised association to furnish information or explanation regarding its affairs or the affairs of its members;

(*b*) to order an inquiry into such affairs; and

(*c*) to direct the Commission to inspect the documents of a recognised association.

Clause 10 gives power to the Central Government to direct any recognised association to make or amend any rules in relation to any matter specified in clause 5 (*2*) other than the matter specified in clause 6(*2*) (*b*).

Clauses 11 and 12.—Clause 11 specifies matters on which a recognised association may make bye-laws for regulating the activities of its members. Any contract entered into in contravention of certain specified bye-laws will be void. [*See* also clause 15 (*2*)]. Power is given to the Central Government under clause 12 to amend the bye-laws of a recognised association, wherever necessary.

Clauses 13 and 14 contain necessary powers for the supersession of the governing body of a recognised association, or to suspend the business of a recognised association in emergencies.

Clause 15.—When associations have been recognised under clause 6 in respect of a commodity in any area and clause 15 is brought into force with respect to that commodity in that area, no forward contract will be allowed to be entered into in respect of that commodity in that area except by or through a member of a recognised association. The clause also provides that any forward contract entered into in contravention of the bye-laws of the recognised association shall be void. It has also been provided that the rights of innocent third parties will not be affected by forward contracts entered into in contravention of the bye-laws. A number of a recognised association, while executing a sale or purchase order from a non-member, will be required not to buy or sell on his own account, except with the consent of the non-member. Such consent, however, will not be required when the member has to close out an outstanding contract.

Clause 17 empowers Government Government to prohibit contracts in any commodity to which clause 15 has not been made applicable. Similar powers are contained in the Essential Supplies (Temporary Powers) Act, 1946, but they are limited to the essential commodities specified in that Act. The power to prohibit forward contracts may have to be exercised in the case of commodities in which excessive speculation is found to be taking place, but to which the regulatory provisions of this Act have not yet been applied. Such prohibition will be withdrawn as and when the necessary arrangements are made to regulate forward contracts in the commodity concerned. Where forward trading has to be prohibited even in respect of a commodity to which clause 15 has been made applicable, the necessary action can be taken under clause 14 or clause 7.

Clause 18 provides for application of Chapters III and IV to non-transferable specific delivery contracts. *See* the note on clause 2.

Clause 19 prohibits option in goods. It is considered that options unduly increase the volume of speculation and have a demoralising effect on the market.

Clause 23 makes certain offences under the Act cognizable.

Clause 25 provides for the establishment of an Advisory Committee which will advise the Central Government on any matter concerning the operation of this Act.

Clause 27.—This power is necessary. It was provided in the Forward Contracts (Prohibition) Orders issued under the Defence of India Rules and was utilised to deal with special cases.

FINANCIAL MEMORANDUM.

The Forward Contracts (Regulation) Bill contemplates the setting up of a Forward Markets Commission to advise the Central Government in the administration of the proposed Act and to provide for a continuous study of the problems relating to forward markets.

2. The Commission is to consist of not less than two but not exceeding three members of whom the Chairman and the Secretary shall be full-time members and the third member, if any, full-time or part-time as may be decided. One of the members will be an officer of the Central Government. Assuming that the Commission consists of three full-time members, of whom one will be the Chairman and the other will function also as Secretary, and that the Commission has a small office, the expenditure involved will be about Rs. 25,000 non-recurring (to set up the office) and about Rs. 1,50,000 per annum recurring.

M. N. KAUL, Secy.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on th November, 1952:—

BILL No. 101 OF 1952.

A Bill to make provision for the prevention of adulteration of food.

BE it enacted by Parliament as follows:—

PRELIMINARY

1. **Short title and extent.**—(*1*) This Act may be called the Food dulteration Act, 1952.

(*2*) It extends to the whole of India except the State of Jammu and ashmir.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*i*) "adulterated"—an article of food shall be deemed to be adulterated—

(*a*) if the article sold by a vendor is not of the nature, substance or quality demanded by the purchaser and is to his prejudice;

(*b*) if the article has been mixed with any other substance so as to reduce, lower or injuriously affect its quality or nutritive value;

(*c*) if any inferior or cheaper substance has been substituted wholly or in part for the article so as to affect injuriously the nature, substance or quality thereof;

(*d*) if any constituent of the article has been wholly or in part abstracted so as to affect injuriously the nature, substance or quality thereof;

(*e*) if the article had been prepared, packed or kept under insanitary conditions whereby it has been become contaminated or injurious to health;

(*f*) if the article, whether manufactured or not, consists wholly or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased animal or vegetable substance or is otherwise unfit for human consumption;

(*g*) if the article is obtained from a diseased animal or from an animal fed upon unwholesome food;

(*h*) if there is added to the article any poisonous or other ingredient which renders it injurious to health;

(*i*) if the container of the article is composed, whether wholly or in part, of any poisonous or deleterious substance which renders its contents injurious to health;

(*j*) if any colouring matter other than that prescribed in respect thereof and in amounts not within the prescribed limits of variability is present in the article;

(*k*) if the article contains any prohibited preservative or permitted preservative in excess of the prescribed limits;

(*l*) if the quality or purity of the article falls below the prescrib standard or its constituents are present in quantities which in excess of the prescribed limits of variability;

(*ii*) "Central Food Laboratory" means any laboratory or institu established or specified under section 4;

(*iii*) "Committee" means the Central Committee for Food Standa constituted under section 3;

(*iv*) "Director of the Central Food Laboratory" means the pers appointed by the Central Government by notification in t Official Gazette as the Director of the Central Food Laboratory a includes any person appointed by the Central Government in l manner to perform all or any of the functions of the Direc under this Act;

(*v*) "food" means any article used as food or drink by man, other th drugs and water and includes—

(*a*) any article which ordinarily enters into, or is used in the co position or preparation of human food, and

(*b*) any flavouring matter or condiments;

(*vi*) "Food (Health) Authority" means the Director of Medical a Health Services or the Chief Officer in charge of Health admin tration in a State by whatever name he is called; -

(*vii*) "local area" means any area, whether urban or rural, declared the State Government, by notification in the Official Gazette, be a local area for the purposes of this Act;

(*viii*) "local authority" means in the case of—

(*1*) a local area which is—

(*a*) a municipality, the municipal board;

(*b*) a cantonment, the cantonment authority;

(*c*) a notified area, the notified area committee;

(*2*) any other local area, such authority as may be prescribed by t State Government under this Act;

(*ix*) "misbranded"—an article of food shall be deemed to be misbranded-

(*a*) if it is an imitation of, or is a substitute for, or resembles in manner likely to deceive, another article of food under t name of which it is sold, and is not plainly and conspicuousl labelled so as to indicate its true character;

(*b*) if it is falsely stated to be the product of any place or country;

(*c*) if it is sold by a name which belongs to another article of food;

(*d*) if it is so coloured or coated, powdered or polished that the fac that the article is damaged is concealed or if the article made to appear better or of greater value than it really is;

(*e*) if false claims are made for it upon the label or otherwise;

(*f*) if, when sold in packages which have been sealed or prepared by o at the instance of the manufacturer or producer and whic bear his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act;

(*g*) if the package containing it, or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular: or if the package is otherwise deceptive with respect to its contents;

(*h*) if the package containing it or the label on the package bears the name of a fictitious individual or company as the manufacturer or producer of the article;

(*i*) if it purports to be, or is represented as being, for special dietary uses, unless its label bears such information as may be prescribed concerning its vitamin, mineral, or other dietary properties in order sufficiently to inform its purchaser as to its value for such uses;

(*j*) if it contains any artificial flavouring, artificial colouring or chemical preservative, without a declaratory label stating that fact, or in contravention of the requirements of this Act or rules made thereunder;

(*k*) if it is not labelled in accordance with the requirements of this Act or rules made thereunder;

(*x*) "package" means a box, casket, tin, barrel, case, receptacle, sack, bag, drapper or other thing in which an article of food is placed or packed;

(*xi*) "premises" include any manufacturing shop, stall, or place where any article of food is sold or manufactured or stored for sale;

(*xii*) "prescribed" means prescribed by rules made under this Act;

(*xiii*) "sale" with its grammatical variations and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article;

(*xiv*) "sample" means a sample of any article of food taken under the provisions of this Act or of any rules made thereunder;

(*xv*) the words "unwholesome" and "noxious" when used in relation to an article of food mean respectively that the article is harmful to health or repugnant for human use.

ENTRAL COMMITTEE FOR FOOD STANDARD AND CENTRAL FOOD LABORATORY.

3. The Central Committee for Food Standards.—(*1*) The Central Government shall, as soon as may be after the commencement of this Act, institute a Committee called the Central Committee for Food Standards to advise the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it under this Act.

(*2*) The Committee shall consist of the following members, namely:—

(*a*) the Director-General, Health Services, *ex-officio*, who shall be the Chairman;

(*b*) the Director of the Central Food Laboratory, *ex-officio;*

(*c*) four experts connected with prevention of food adulteration from different States nominated by the Central Government;

(*d*) one representative each of the Central Ministries of Food and Agriculture, Commerce and Industry, Railways and Defence nominated by the Central Government.

(*e*) one representative each nominated by the Government of each Part A State and Part B State;

(*f*) two representatives nominated by the Central Government to represent the Part C States.

(*3*) The members of the Committee referred to in clauses (*c*), (*d*), (*e*) and (*f*) of sub-section (*2*) shall, unless their seats become vacant earlier by resignation, death or otherwise, be entitled to hold office for three years and shall be eligible for renomination.

(*4*) The functions of the Committee may be exercised notwithstanding any vacancy therein.

(*5*) The Committee may appoint such and so many sub-committees as it deems fit and may appoint to them persons who are not members of the Committee to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Committee may impose, be delegated to them by the Committee.

(*6*) The Committee may, subject to the previous approval of the Central Government, make bye-laws for the purpose of regulating its own procedure and the transaction of its business.

4. Central Food Laboratory.—(*1*) The Central Government may, by notification in the Official Gazette,—

(*a*) establish a Central Food Laboratory; or

(*b*) specify any laboratory or institute as a Central Food Laboratory;

to carry out the functions entrusted to the Central Food Laboratory by this Act or any rules made under this Act.

(*2*) The Central Government may, after consultation with the Committee, make rules prescribing—

(*a*) the functions of the Central Food Laboratory;

(*b*) the procedure for the submission to the said Laboratory of samples of articles of food for analysis or tests, the forms of the Laboratory's reports thereon and the fees payable in respect of such reports;

(*c*) such other matters as may be necessary or expedient to enable the said Laboratory to carry out its functions.

GENERAL PROVISIONS AS TO FOOD.

5. Prohibition of import of certain articles of food.—From such date as may be fixed by the Central Government by notification in the Official Gazette in this behalf, no person shall import into India—

(*i*) any adulterated food;

(*ii*) any misbranded food;

(*iii*) any article of food for the import of which a licence is prescribed, except in accordance with the conditions of the licence; and

(*iv*) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

6. Application of law relating to sea customs and powers of Customs Officers.—(*1*) The law for the time being in force relating to sea customs and to goods, the import of which is prohibited by section 18 of the Sea Customs Act, 1878 (VIII of 1878), shall, subject to the provisions of section 16 of this Act, apply in respect of articles of food, the import of which is prohibited under section 5 of this Act, and officers of Customs and officers empowered under that Act to perform the duties imposed thereby on a Customs Collector and other officers of Customs shall have the same powers in respect of such articles of food as they have for the time being in respect of such goods as aforesaid.

(*2*) Without prejudice to the provisions of sub-section (*1*) the Customs Collector, or any officer of the Government authorized by the Central Government in this behalf, may detain any imported package which he suspects to contain any article of food the import of which is prohibited under section 5 of this Act and shall forthwith report such detention to the Director of the Central Food Laboratory and, if required by him, forward the package or send samples of any suspected article of food found therein to the said Laboratory.

7. Prohibition of manufacture, sale, etc., of certain articles of food.—From such date as may be fixed by the State Government, by notification in the Official Gazette, in this behalf no person shall himself or by any person on his behalf manufacture for sale, or sell or distribute—

(*i*) any adulterated food;

(*ii*) any misbranded food;

(*iii*) any article of food for the sale of which a licence is prescribed, except in accordance with the conditions of the licence;

(*iv*) any article of food the sale of which is for the time being prohibited by the Food (Health) Authority with a view to preventing the outbreak or spread of infectious diseases; or

(*v*) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

ANALYSIS OF FOOD.

8. Public Analysts.—The State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit and possessing such qualifications as may be prescribed, to be public analysts and define the local areas over which they shall exercise jurisdiction:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed:

Provided further that the State Government may appoint one public analyst for two or more local areas, such local areas being regarded as one unit for the purposes of this Act.

9. Food Inspectors.—(*1*) Subject to the provisions of section 14 the State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit, having the prescribed qualifications to be food inspectors for the purposes of this Act, and they shall exercise their powers within such local areas as that Government may assign to them:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed.

(*2*) Every food inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (Act XLV of 1860).

10. Powers of food inspectors.—(*1*) A food inspector shall have power—

(*a*) to take samples of any article of food from—

(*i*) any person selling such article;

(*ii*) any person who is in the course of conveying, delivering or preparing to deliver such article to a purchaser or consignee;

(*iii*) a consignee after delivery of any such article to him; and

(*b*) to send such sample for analysis to the public analyst for the local area within which such sample has been taken:

(*c*) with the previous approval of the health officer having jurisdiction in the local area concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of any article of food with a view to preventing the outbreak or spread of any infectious disease.

(*2*) Any food inspector may enter and inspect any place where any article of food is manufactured, stored or exposed for sale and take samples of such articles of food for analysis.

(*3*) Where any sample is taken under clause (*a*) of sub-section (*1*) or sub-section (*2*), its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(*4*) If any article intended for food appears to any food inspector to be adulterated or misbranded, he may seize and carry away such article in order that it may be dealt with as hereinafter provided.

(*5*) The power conferred by this section includes power to break open any package in which any article of food may be contained or to break open the door of any premises where any article of food may be kept for sale.

11. Procedure to be followed by food inspectors.—(*1*) When a food inspector takes a sample of food for analysis, he shall—

(*a*) give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample;

(*b*) separate the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits; and

(*c*) (*i*) deliver one of the parts to the person from whom the sample has been taken;

(*ii*) send another part for analysis to the public analyst; and

(iii) retain the third part for production in case any legal proceedings are taken or for analysis by the Director of the Central Food Laboratory under sub-section (*2*) of section 13, as the case may be.

(*2*) If the person from whom the sample has been taken declines to accept one of the parts, the public analyst receiving a sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his report, to be delivered to the food inspector who shall retain it for production in case legal proceedings are taken.

(*3*) When a sample of any article of food is taken under sub-section (*1*) or sub-section (*2*) of section 10, the food inspector shall send a sample of it in accordance with the rules prescribed for sampling to the public analyst for the local area concerned.

(*4*) If the sample of the article is reported by the public analyst to be not adulterated, the article shall be returned at the cost of the Government to the owner or person from whose possession it was seized.

(*5*) An article of food seized under sub-section (*4*) of section 10, shall be produced before a magistrate as soon as possible:

Provided that in the case of any article of which samples have been sent to the public analyst for analysis it may be produced on or after the receipt of the report of the public analyst.

(*6*) If it appears to the magistrate on taking such evidence as he may deem necessary that the article of food produced before him under sub-section (*5*) is adulterated, he may order it—

(*a*) to be forfeited to the local authority, or

(*b*) to be destroyed at the cost of the owner of or the person from whom it was seized so as to prevent its being used as human food,

(*c*) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name, or

(*d*) to be returned back to the owner for being sold under its appropriate name, after taking adequate guarantee from the owner.

12. Purchaser may have food analysed.—(*1*) A purchaser of any article of food other than a food inspector shall be entitled, on payment of such fees as may be prescribed, to have such article analysed by the public analyst and to receive from him a report of the result of his analysis.

(*2*) Before submitting such article to be analysed as aforesaid the purchaser shall notify in writing to the seller his intention to have it so analysed; and the public analyst on receiving such article for analysis shall divide it into three parts, of which one is to be analysed, another to be retained by him in order to be returned with his report and the third to be delivered on demand to the seller:

Provided that each part other than the part analysed shall be marked and sealed or fastened up in such manner as may be prescribed.

13. Report of public analyst.—(*1*) The public analyst shall deliver, in such form as may be prescribed, a report to the food inspector of the result of the analysis of any article of food submitted to him for analysis.

(2) Where a food inspector or an accused vendor under this Act is not satisfied with the report given by the public analyst under sub-section (1), he may, on payment of the prescribed fee, send the part of the sample mentioned in sub-clause (iii) of clause (c) of sub-section (1) of section 11 to the Director of the Central Food Laboratory for report and the Director of the Laboratory shall thereupon grant a certificate in the form prescribed specifying the result of his analysis.

(3) The certificate issued by the Director of the Central Food Laboratory under sub-section (2) shall supersede the report given by the public analyst under sub-section (1).

(4) Where a certificate obtained from the Director of the Central Food Laboratory under sub-section (2) is produced in any proceeding under this Act, or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860), it shall not be necessary in such proceeding to produce any part of the sample of food taken for analysis.

(5) Any document purporting to be a report signed by a public analyst unless it has been superseded under sub-section (3), or any document purporting to be a certificate signed by the Director of the Central Food Laboratory, may be used as evidence of the facts stated therein in any proceeding under this Act or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860):

Provided that these officers shall not be required to attend the court for examination or cross-examination in connection with reports or certificates of analysis signed by them under this Act.

MISCELLANEOUS.

14. Import of food and sale of food in railway and other premises.—(1) The Central Government may, by notification in the Official Gazette, appoint any person to exercise the powers of a food inspector under sections 10 and 11,—

(a) at any major port, air port or land customs station in respect of any article of food which is being imported through such port or station;

(b) in respect of any railway station or group of railway stations where food is being sold:

Provided that the Central Government may, instead of making any appointment under this section, authorise any food inspector in any State in which the major port, air port or land customs station or railway station is situate to exercise such powers.

(2) Every person appointed or authorised under sub-section (1) shall be deemed to be a food inspector for the purposes of this Act.

15. Notification of food poisoning.—The State Government may, by notification in the Official Gazette, require medical practitioners carrying on their profession in any local area specified in the notification to report all occurrences of food poisoning coming within their cognizance to such officer as may be specified in the notification.

16. Penalties.—If any person—

(a) whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes, any article of food in contravention of any of the provisions of this Act or of any rule made thereunder, or

(*b*) prevents a food inspector from taking a sample as authorised by this Act, or

(*c*) prevents a food inspector from exercising any other power conferred on him by or under this Act,

e shall, in addition to the penalty to which he may be liable under the rovisions of section 6, be punishable for the first offence with imprison-ent for a term which may extend to three months, or with fine, or with th, and for a second or subsequent offence with imprisonment for a term hich may extend to one year, or with fine, or with both.

17. Offences by companies.—(*1*) Where an offence under this Act has en committed by a company, every person who at the time the offence as committed was in charge of, and was responsible to the company for ie conduct of, the business of the company, as well as the company, shall e deemed to be guilty of the offence and shall be liable to be proceeded ainst and punished accordingly:

Provided that nothing contained in this sub-section shall render any ch person liable to any punishment provided in this Act if he proves that ie offence was committed without his knowledge or that he exercised all ie diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an fence under this Act has been committed by a company and it is proved at the offence has been committed with the consent or connivance of, or attributable to any neglect on the part of, any director, manager, secre-ry or other officer of the company, such director, manager secretary or her officer shall also be deemed to be guilty of that offence and shall be able to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate, and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.

18. Forfeiture of property.—Where any person has been convicted der this Act for the contravention of any of the provisions of this Act of any rule thereunder, the article of food in respect of which the contra-ntion has been committed may be forfeited to the Government.

19. Defences which may or may not be allowed in prosecutions under is Act.—(*1*) It shall be no defence in a prosecution for an offence pertain-g to the sale of any adulterated or misbranded article of food to allege erely that the vendor was ignorant of the nature, substance or quality of e food sold by him or that the purchaser having purchased any article r analysis was not prejudiced by the sale.

(*2*) A vendor shall not be deemed to have committed an offence if he oves—

(*i*) that the article of food was purchased by him as the same in nature, substance and quality as that demanded by the pur-chaser and with a written warranty in the prescribed form, if any, to the effect that it was of such nature, substance and quality;

(*ii*) that he had no reason to believe at the time when he sold it that the food was not of such nature, substance and quality; and

(*iii*) that he sold it in the same state as he purchased it:

Provided that such a defence shall be open to the vendor only if h has, within seven days of the receipt of a copy of the report of the publi analyst, submitted to the food inspector or the local authority a copy o the warranty with a written notice stating that he intends to rely on it an specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person:

Provided further that the warranty given by a person resident in an area in which this Act is not in force shall be a defence to the vendor onl if the vendor proves to the satisfaction of the court that he had take reasonable steps to ascertain and did in fact believe in, the accuracy of th statement contained in the warranty.

(*3*) Any person by whom a warranty as is referred to in sub-section (*2*) is alleged to have been given shall be entitled to appear at the hearing an give evidence.

(*4*) Where an employer is charged with an offence under this Act h shall be entitled, on application duly made by him, to have any othe person whom he charges as the actual offender brought before the cour at the time appointed for hearing, and if, after the commission of th offence has been proved the employer proves to the satisfaction of th court that he has used due diligence to enforce the execution of this Ac and that the said other person committed the offence without his knowledge consent or connivance, the said other person shall be convicted and th employer shall be acquitted.

20. Cognizance and trial of offences.—(*1*) No prosecution for an offenc under this Act shall be instituted except by, or with the written consen of, the State Government or a local authority or a person authorised in thi behalf by the State Government or a local authority.

(*2*) No court inferior to that of a magistrate of the second class shall tr any offence under this Act.

21. Protection of action taken in good faith.—No suit, prosecution o other legal proceedings shall lie against any person for anything which i in good faith done or intended to be done under this Act.

22. Power of the Central Government to make rules.—The Centra Government may, after consultation with the Committee and subject to th condition of previous publication, make rules—

(*a*) specifying the articles of food or classes of food for the import o which a licence is required and prescribing the form and condi tions of such licence, the authority empowered to issue the same and the fees payable therefor;

(*b*) defining the standards of quality for, and fixing the limits of variability permissible in respect of, any article of food;

(*c*) laying down special provisions for imposing rigorous control over the production, distribution and sale of milk and milk products

(*d*) laying down special provisions for imposing rigorous control over the production, distribution and sale of vanaspati and edible oils, including registration of the premises where they are manu factured, maintenance of the premises in a sanitary condition

and maintenance of the healthy state of human beings associated with the production, distribution and sale of vanaspati and edible oils;

(*e*) restricting the packing and labelling of any article of food and the design of any such package or label with a view to preventing the public or the purchaser being deceived or misled as to the character, quality or quantity of the article;

(*f*) defining the qualifications, powers and duties of food inspectors and public analysts;

(*g*) prohibiting the sale or defining the conditions of sale of any substance which may be injurious to health when used as food or restricting in any manner its use as an ingredient in the manufacture of any article of food or regulating by the issue of licences the manufacture or sale of any article of food;

(*h*) defining the conditions of sale or conditions for licence of sale of any article of food in the interest of public health;

(*i*) specifying the manner in which containers for samples of food purchased for analysis shall be sealed up or fastened up;

(*j*) specifying a list of permissible preservatives, other than common salt and sugar, which alone shall be used in preserved fruits, vegetables or their products or any other article of food as well as the maximum amounts of each preservative;

(*k*) specifying the colouring matter and the maximum quantities thereof which may be used in any article of food;

(*l*) providing for the exemption from this Act or of any requirements contained therein and subject to such conditions, if any, as may be specified, of any article or classes of articles of food.

23. Power of the State Government to make rules.—(*1*) The State Government may, after consultation with the Committee and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act in matters not falling within the purview of section 22.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) define the powers and duties of the Food (Health) Authority and local authority and jurisdiction of food inspectors and public analysts;

(*b*) prescribe the forms of licences for the manufacture for sale, for the sale and for the distribution of articles of food or any specified article of food or class of articles of food, the form of application for such licences, the conditions subject to which such licences may be issued, the authority empowered to issue the same and the fees payable therefor;

(*c*) direct a fee to be paid for analysing any article of food or for any matter for which a fee may be prescribed under this Act;

(*d*) direct that the whole or any part of the fines imposed under this Act shall be paid to a local authority on realisation;

(*e*) provide for the delegation of the powers and functions conferred by this Act on the State Government or food authorities to subordinate authorities.

24. Repeal of corresponding laws.—If, immediately before the commencement of this Act, there is in force in any State to which this Act extends any law corresponding to this Act, that corresponding law shall upon such commencement stand repealed:

Provided that in so far as any such corresponding law makes provision for any of the matters dealt with in section 7 or for the punishment of offences committed in contravention of any such law, the repeal shall take effect only on the date fixed by the State Government in exercise of the powers conferred upon it by section 7.

STATEMENT OF OBJECTS AND REASONS.

Laws exist in a number of States in India for the prevention of adulteration of food-stuffs, but they lack uniformity having been passed at different times without mutual consultation between States. The need for Central legislation for the whole country in this matter has been felt since 1937 when a Committee appointed by the Central Advisory Board of Health recommended this step. "Adulteration of food-stuffs and other goods" is now included in the Concurrent List in the Constitution of India. It has therefore become possible for the Central Government to enact all-India legislation on this subject. The Bill will replace local food adulteration laws where they exist and also apply to those States where there are no local laws on the subject. Among others, it provides for (1) a Central Food Laboratory to which food samples can be referred for final opinion in disputed cases (clause 4), (2) a Central Committee for Food Standards consisting of representatives of Central and State Governments to advise on matters arising from the administration of the Act (clause 3) and (3) the vesting in the Central Government of the rule-making power regarding standards of quality for articles of food and certain other matters (clause 22).

AMRIT KAUR.

NEW DELHI;
The 8th October, 1952.

FINANCIAL MEMORANDUM.

The Bill involves expenditure to the Central Government on account of the proposed Central Food Laboratory and Inspection Staff at the Railway Stations and Ports. According to present rough estimates, the total expenditure from Central Revenues on account of the Bill is not expected to exceed Rs. 5,75,000 non-recurring and Rs. 1,43,000 recurring per annum.

The expenditure on the enforcement of the Act in the States will devolve on State Governments and local bodies.

M. N. KAUL, Secy.

Registered No. C207

The Calcutta Gazette

THURSDAY, DECEMBER 4, 1952

PART VI.—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 16th July, 1952:—

BILL NO. 82 OF 1952.

A Bill to provide for bringing up, maintenance, and education of Children who have lost their parents and have no other person to look after them in proper manner.

BE it enacted by Parliament as follows:—

1. **Short title and extent.**—(*1*) This Act may be called the Orphanage Act, 19 .

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "orphan" shall mean a child who has lost his father or mother or both and has no other person to take care of him in a proper manner,

(*ii*) "orphanage" mean any anathalaya, yateem-khana, or any other place or home where orphans are brought up whether by charity or in any other way.

3. **Management of orphanages and establishment of homes for orphans.**—(*1*) Soon after the passing of this Act, the Government shall arrange through their own agency or that of the States concerned to take up all orphanages throughout the country under state management.

(*2*) It shall be the duty of every State Government to trace all the orphans from time to time through official or public agencies and take them in Government custody for bringing them up, and for their proper maintenance, and education.

(*3*) Arrangements shall be made, in each state at suitable places for the establishment of orphanages where they shall be brought up and maintained and where arrangements shall also be made for their education.

4. **Custody of orphans.**—All orphans shall remain under the custody of the State for the purposes mentioned in section 3 till each one of them has acquired an age and education to enable him to earn his livelihood and pass his life as a full-fledged citizen of India.

5. **Arrangements for technical education.**—In each orphanage arrangements shall be made for the establishment of technical education so that each child on acquiring a certain age may learn some kind of industry or art in order that he may be able to earn as he learns and grows up so that he may ultimately be in a position to engage himself in some kind of job, or trade or profession to maintain himself independently.

STATEMENT OF OBJECTS AND REASONS.

It has been observed that children who have lost their parents and have no other person to look after them have no means to get any proper education to become useful citizens in life. In all advanced countries the State provides for the maintenance and education of such orphans. The present Bill is intended to remove this disability from which orphans in this country suffer.

M. L. DWIVEDI.

M. N. KAUL, Secy

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 16th July 1952 :—

BILL NO. 75 OF 1952.

A Bill to control the export and the standardisation of handloom cloth.

WHEREAS it is expedient to provide for the control of the export and the standardisation of production of handloom cloth :

BE it enacted by Parliament as follows:—

1. **Short title, extend and commencement.**—(*1*) This Act may be called the Control of Export and Standardisation of Handloom Cloth Act, 19

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

2. **Definitions.**—In this Act unless there is anything repugnant in the subject or context—

(*1*) "Board" shall mean a Handloom Board constituted under the provisions of this Act;

(*2*) "broker" shall mean any person who negotiates and makes contracts on behalf of others for the sale or purchase of cloth, but neither stocks such cloth for delivery on such sales nor takes possession of such cloth on such purchases;

(*3*) "cloth" shall mean cloth woven on handlooms either wholly from mill-made cotton yarn or partly from such yarn or any other material containing not less than ten per cent. of cotton by weight;

(4) "collector" shall mean the Collector of the district in which the notified area is situated;

(5) "commission agent" shall mean a person who on behalf of another person and in consideration of a commission makes or offers to make a purchase or sale of cloth or does not offer to do anything necessary for completing or carrying out such sale or purchase;

(6) "dealer" shall mean a person who sells cloth or stores it for sale whether on his own account or as a commission agent, whether in conjunction with any other business or not;

(7) "director" shall mean Director of Industries of any State;

(8) "handloom" means a weaver's loom worked by human labour in which yarn or thread is woven into fabric;

(9) "hawker" shall mean a person other than an independent weaver who goes from place to place or house to house carrying or exposing cloth for sale or exposing samples of such cloth to be afterwards delivered;

(10) "independent weaver" shall mean any person who himself weaves cloth on a handloom under his control or has the cloth woven by members of his family on such handloom;

(11) "licence" shall mean a licence granted under this Act by the licensing authority;

(12) "licensing authority" shall mean the Collector and includes any officer authorised by the Collector to exercise the powers and perform the functions of the licensing authority under this Act;

(13) "loom certificate" shall mean a certificate issued by the licensing authority for an active handloom;

(14) "master weaver" shall mean any person who engages weavers other than members of his family for the production of cloth and includes a weavers' co-operative society registered under the Co-operative Societies Act, 1912, handloom factory or any other organization which engages weavers for the production of handloom cloth;

(15) "notified area" shall mean any area notified under sub-section (1) of section 12 as altered by notification or notifications, if any, under sub-section (2) of section 12;

(16) "prescribed" shall mean prescribed rules or bye-laws made under this Act;

(17) "prescribed marking" shall mean marking prescribed by the Board and required to be stamped on the cloth in respect of anyone or more of the following or part thereof :

(a) the description, number, quantity, length and width or quality of the cloth,

(b) the number of ends and picks, the count of yarn used for warp and for weft,

(c) the fastness of dyes used in the production of cloth,

(*d*) the materials on which the cloth is produced,

(*e*) the address of the stamping centre or the licensee who fixed the stamps;

(*18*) "standard specification" shall mean specification prescribed by the Board for any particular variety of cloth produced in the notified area or part thereof;

(*19*) "authorised handloom exporters" shall include Co-operative Societies and/or Companies registered under the Indian Companies Act, 1913, of master weavers or master weavers and independent weavers, engaged in the production of handloom cloth.

3. Kind of cloth to be exported from India.—No handloom cloth shall be exported out of India unless it bears the prescribed marking.

4. Persons who can export handloom cloth.—No handloom cloth shall be exported out of India except by the authorised handloom exporters.

5. Special concessions to authorised handloom exporters.—(*1*) The authorised handloom exporters shall be supplied yarn directly from the mills in required quantities at mill rates and they shall have priority over all others in the matter of distribution of yarn.

(*2*) No sales tax shall be levied on yarn supplied to them or handloom cloth sold by them and the goods produced by them shall not be subject to any excise or export duty.

(*3*) Special concessional rates in Indian railways and in ships subsidised by the Central Government shall be given to them for the movement of their cloth out of India.

(*4*) Special marketing officers shall be attached to Indian Embassies and Trade Commissioners abroad to assist them in the marketing of their goods and for expanding the market for them.

6. Central Handloom Board.—The Central Government shall establish a Central Handloom Board to carry out the aims and objects of this Act generally and in particular for the following purposes :—

(*i*) framing rules and regulations for the export of high quality handloom goods out of India;

(*ii*) devising ways and means of enforcing the same;

(*iii*) supervising the work of State handloom boards;

(*iv*) acting as a liaison between the Indian Trade Commissioners abroad and the authorised handloom exporters in India;

(*v*) organising trade delegations to foreign countries to consolidate and expand the markets for handloom cloth;

(*vi*) collection and dissemination of information regarding all matters relating to production and marketing;

(*vii*) formulating schemes for the extension and improvement of production of cloth within the notified area and their implementation;

(*viii*) propaganda in favour of technical improvement of production and provision of facilities for teaching improved methods of production of cloth;

(*ix*) holding of exhibitions and ocular display of improved methods of production of cloth;

(*x*) publicity and provision of facilities for marketing;

(*xi*) provision and arranging facilities for the examination and testing of different fabrics, processes and practices and for any investigation or research that may be necessary;

(*xii*) establishing and maintaining libraries and museums for purposes of furthering the progress of standardisation and improving the technique of production and processing of cloth;

(*xiii*) the purchase or hiring out improved appliances connected with the industry; and

(*xiv*) such other purposes as may be authorised by the Government in this behalf by general or special order for the development of the handloom industry and improvement of the economic condition of the weaver.

7. Constitution of the Central Board.—(*1*) The Central Board shall consist of twenty-one members with the Minister of Industries at the Centre as the Chairman. Of these five shall be officials, and the rest shall be non-officials. Representation to the States on the Board may be given in proportion to the looms in the respective States.

(*2*) The non-official members shall be nominated for three years in consultation with the Minister of Industry of a State and representative bodies connected with the industry.

(*3*) The Secretary of the Ministry of Industries shall be *ex-officio* Secretary of the Board.

8. Finances of the Board.—The Central Government shall set apart such funds as may be necessary to carry out any or all of the objects mentioned in section 6.

9. State Handloom Board.—(*1*) The State Government may establish a State Handloom Board to supervise and control the work of the Handloom Boards in notified areas and to carry out any of the objects mentioned in clauses (*vi*), (*vii*), (*viii*), (*ix*), (*x*), (*xi*), (*xii*), (*xiii*) and (*xiv*) of section 6.

(*2*) It shall consist of fifteen members, with the Minister for Industries of a State as the Chairman. Three of the members shall be officials of whom the Director of Industries and the Registrar of Co-operative Societies of a State shall be *ex-officio* members; and the rest shall be non-officials.

(*3*) The non-official members may be appointed for three years in consultation with the representative bodies connected with the industry.

(*4*) Section of the Department of Industries shall be *ex-officio* Section of the Board.

10. Finances of State Boards.—The State Government shall set apart such funds as may be necessary to carry out any or all of the objects mentioned in sub-section (*1*) of section 9.

11. Notification of intention to promote standardisation.—The State Government may, by notification in the Official Gazette, declare their intention to promote the general adoption of certain prescribed standards in connection with the production of such cloth in such area or areas as may be specified in the notification. Such notification shall state that any objections or suggestions which may be received by the State Government, within a period to be specified in the notification, will be considered by them. A copy of the notification will be published in the prescribed manner.

12. Declaration of notified area.—(*1*) After the expiry of the period specified in the notification under section 11 and after considering such objections or suggestions as may be received before such expiry, the State Government may, by a notification in the Official Gazette, or in any other manner prescribed, declare the area or areas specified in the notification under section 11 or any portion thereof to be a notified area for the purpose of this Act.

(*2*) Subject to the provisions of section 11, the State Government may by notification—

(*a*) exclude from a notified area any area comprised therein and defined in such notification, or

(*b*) include in any notified area any area defined in such notification.

13. Establishment of Handloom Boards and Stamping Centres.—(*1*) The State Government shall establish a board for every notified area. It shall be the duty of the board to enforce the provisions of this Act, and the rules and bye-laws made thereunder in such notified area.

(*2*) Every board shall establish in such notified area such number of stamping centres as the Collector may direct from time to time for the purpose of stamping cloth with the prescribed markings.

14. Registration of handlooms in the notified area.—No person shall, within a notified area, set up, use, continue or allow to be continued any handloom for the production of cloth except under and in accordance with the conditions of a loom certificate granted to him by the Collector.

15. Standardisation of production and stamping cloth.—(*1*) The board shall, with the approval of the director, prescribe standard specifications in respect of cloth produced in the notified area or parts thereof and the prescribed markings to be stamped on such cloth.

(*2*) Save as hereinafter provided all cloth produced in a notified area and intended for export outside India, shall be stamped in accordance with the provisions of this section.

(*3*) Only such cloth as conforms to the standard specifications prescribed shall be stamped with prescribed markings:

Provided that the board may with the approval of the director exempt from the provisions of this section any cloth produced by any specific independent weaver or class of independent weavers.

16. Issue of licence to stamp.—(*1*) No person other than officer of the board specially authorised for the purpose shall, within a notified area set up, establish or use, continue or allow to be continued, any place for the stamping of cloth with the markings prescribed by the board except under and in accordance with the conditions of a licence granted to him by the Collector.

(2) Such licence shall be granted only to authorised handloom exporters who apply for it in the prescribed form, on payment of the prescribed fees.

(3) The person licenced to stamp the prescribed markings shall be held responsible for the correctness of the description and details given in the markings made by himself or by others acting on his behalf.

17. Prohibition against sales of unstamped cloth.—(1) No master weaver or dealer or independent weaver who has not been exempt under section 15, shall despatch or deliver to any person to be exported out of India whether in pursuance of a sale or otherwise, any cloth unless it has been stamped with the marking prescribed by the board.

(2) Where a cloth stamped under the Act is not sold as a whole that portion of the cloth containing the prescribed markings shall be sold last.

18. Licensing of master weaver, dealer, commission agent, broker.—(1) No master weaver or dealer shall sell cloth or store it for sale or carry on business as a commission agent or broker in cloth in any State except under and in accordance with the terms and conditions of a licence granted to him under this section by the licensing authority.

(2) Where a person, other than a hawker, has more than one place of business, whether in the same town or village or different towns and villages, he shall obtain a separate licence in respect of such place of business.

(3) The Collector may in his discretion grant or refuse to grant a licence under this section.

(4) Subject to such rules as may be made by the State Government the Collector may, either on the report of the board or by himself and after such inquiry as he deems fit, cancel or suspend a licence granted under this section.

19. Obligation of Licencees.—Every person to whom a licence is granted under sections 16 and 18 shall comply with the provisions of this Act, the rules and the bye-laws made thereunder and the conditions specified in the licence.

20. Constitution of the Board in notified areas.—(1) Every board shall consist of such number of members not exceeding seven as may be fixed for it by the State Government.

(2) The Deputy Registrar of Co-operative Societies having jurisdiction over the notified area and the industries of the district, shall be a member of the board.

(3) The State Government shall appoint non-officials as members in consultation with the Collector and representative bodies connected with the industry for a period of three years.

(4) The State Government shall appoint Assistant Registrars of Co-operative Societies as Secretaries of the board.

21. Levy of Fees by the Board.—The board shall, subject to such rules as may be made in this behalf, levy fees for stamping the prescribed marking on cloth produced in the notified area at such rates as it may determine:

Provided that until the board has determined the rates of such fees, it shall levy fees at the rates specified in the schedule to this Act.

Explanation.—For the purpose of this section all cloth found in a notified area, shall, unless the contrary is proved, be presumed to have been produced in the notified area.

22. Levy of subscriptions for market reports, etc.—The board may subject to such rules as may be made in this behalf levy a subscription for collecting and disseminating among the subscribers information as to any matter relating to the production or making of cloth.

23. Handloom Board Fund.—All moneys received by the board shall be paid into a fund to be called the Handloom Board Fund. All expenditure incurred by the board under or for the purposes of this Act, shall be defrayed out of the said fund; and any surplus remaining after such expenditure has been met shall be invested in such manner as may be prescribed by rules.

24. Purposes for which Fund may be expended.—Subject to the provisions of section 23 the Handloom Board Fund shall be expended for any or all of the objects mentioned in clauses (*vi*), (*vii*), (*viii*), (*ix*), (*x*), (*xi*), (*xii*), (*xiii*) and (*xiv*) of section 6.

25. Penalties.—Whoever affixes or causes to be affixed prescribed markings which are false in any material particular shall be punished with a fine which may extend to rupees five hundred.

Explanation.—A trade description of length stamped on grey, white or coloured cloth shall not be deemed to be false in a material particular unless—

(*a*) where a single length is stamped the description exceeds the actual length by more than four inches in pieces stamped as ten yards long and under five inches in pieces stamped as above ten yards and up to and including twenty yards, six inches in pieces stamped as above twenty yards.

(*b*) a trade description of length stamped on grey, white or coloured cloth shall not be deemed to be false in a material particular unless the description exceed the actual width by half an inch in pieces stamped as thirty-six or less in width, ¾inch in pieces stamped as over thirty-six or under forty-eight in width, one inch in pieces stamped as forty-eight or more in width.

26. Composition of offences.—(*1*) Whoever contravenes the provisions of sections 14, 17, 18 and 19 shall be punishable with fine which may extend to rupees two hundred and in the case of continuing contravention with a further fine which may extend to rupees one hundred for every day during which the contravention is continued after conviction.

(2) Any person specially empowered in this behalf may accept, from any person reasonably suspected of having committed an offence punishable under this Act, other than an offence punishable under section 25, a sum of rupees fifty by way of compensation for the offence and on the payment of such sum to such person no proceeding shall be taken against such persons in respect of such offences.

27. Power to make rules.—(*1*) The State Government may, either generally or specially for any notified area or areas, make rules consistent with this Act for carrying out all or any of the purposes thereof.

(*2*) In particular and without prejudice to the generality of the foregoing sub-section and in conformity with any directions that may be given by the central board, such rules may provide for and regulate—

(*a*) the maximum annual fees which may be levied in respect of licences granted under this Act and the recovery of such fees,

(*b*) the maximum rates of subscription which may be levied by area board under this Act and the recovery of such subscriptions,

(*c*) the form in which and the conditions under which licences granted under this Act shall be issued or renewed and the fees to be charged therefor,

(*d*) the registration of handlooms, the form in which and the conditions under which the registration may be renewed and the fees to be charged therefor,

(*e*) the periodical inspection of verification of looms, licences and stamping places,

(*f*) the markings to be prescribed by the board in order to bring about the standardisation of production,

(*g*) the specification to be prescribed by the board in respect of cloth produced in the notified area,

(*h*) composition of offences.

(*3*) (*a*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication,

(*b*) all rules made under this section shall be published in the Official Gazette and on such publication shall have the effect as if enacted in this Act,

(*c*) all such rules shall be laid before the State Legislature for information.

28. Trial of offences.—(*1*) No offence made punishable by this Act or any rule or bye-law made thereunder shall be tried by a court inferior to that of a Presidency Magistrate or Magistrate of the First Class.

(*2*) Prosecutions made under this Act may be instituted by any person duly authorised in writing by the board or the director in this behalf.

(*3*) All fines and compounding fees recovered from an offender shall be credited to State revenues and a grant equivalent to such amount shall be paid to the board.

29. Appeals.—An appeal shall lie to the Director of Industries of the State against an order passed by the Collector under this Act and a second appeal shall be to the State Government.

THE SCHEDULE.

(Proviso to section 21.)

Minimum fee for stamping ; One pie per yard subject to a maximum of three pies per piece.

STATEMENT OF OBJECTS AND REASONS.

The handloom industry is in a most unorganised state and cannot surviv on the internal market alone. Unless we export quality goods, our export marke will be nil. It is necessary to organise the industry, control production standardise the cloth for export with reference to fixed specifications and allov export of only such cloth. In order to meet the competition from Mills' goods both Indian and foreign special concessions to those who produce cloth for expor are absolutely necessary.

S. V. RAMASWAMY

M. N. KAUL, Secy.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 16th July, 1952:—

BILL No. 64 OF 1952.

A Bill to prevent procreation of human beings of undesirable physical and mental conditions by certain types of people.

WHEREAS it is expedient in the interests of health and well-being of society and the financial resources of the State, to prevent certain types of people suffering from highly undesirable physical and mental conditions, from procreating human beings like unto themselves:

BE it enacted by Parliament as follows:—

1. **Short title, extent and commencement.**—(*1*) This Act shall be called the Sterilisation of the Unfit Act, 195 .

(*2*) It extends to the whole of India, except the State of Jammu and Kashmir.

(*3*) It shall come into force on such dates as the Central Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(1) "board" shall mean a board of medical experts constituted under this Act.

(2) "Court" means the District Court of the district in which the board is situated.

(3) "prescribed method" shall mean vasectomy, urethrectomy, salphingectomy or ovariectomy, or such other method.

(4) "sterilisation" shall include such medical or surgical treatment that would effectively prevent any person, male or female, from giving birth to a child.

(5) "unfit" shall mean any person, male or female, who suffers from such a type of leprosy or syphilis, insanity or imbecility congenital or otherwise, that he or she is likely to give birth to children like himself or herself unless sterilised.

3. **Constitution of the Board.**—Government may, by notification in the Official Gazette, constitute a board for each district including metropolitan cities with the district medical officer as the chairman and four registered medical practitioners, of whom two shall be official and two shall be non-official.

4. **Procedure for sterilisation.**—(*1*) Whenever information is given to the chairman of the board that any person is unfit the board shall procure the presence of that person and examine him.

(*2*) On a written requisition of the chairman of the board to any Magistrate of the First Class having jurisdiction over the place where that person lives, summons shall be issued by that court to that person in order to appear before it and that person shall, by an order, be bound over to appear before the board:

Provided that the date fixed for appearance before the board shall not be less than twenty-one days from the date of such order.

(*3*) A copy of that order shall be furnished to that person forthwith free of cost.

(*4*) If on the date fixed for appearance before the board, the person does not appear before it, the chairman of the board shall report such fact to the Superintendent of Police of the District.

(*5*) The Superintendent of Police shall thereupon order the arrest of that person by an officer subordinate to him not lower than the rank of a Circle Inspector of Police and for production before the board.

5. **Examination of person.**—(*1*) The board shall then proceed to examine the person with reference to his unfitness. If the majority of the board decide that he is unfit a declaration to that effect shall be made in writing. But if the majority hold that he is not unfit he shall be discharged forthwith.

(*2*) A copy of such declaration shall be furnished to that person the same day free of cost.

6. **Sterilisation of person.**—After such a declaration the person may be sterilised on an appointed day by the prescribed method without dismembering any of his limbs or organs:

Provided that the date fixed for sterilisation shall not be less than twenty-one days of such declaration of unfitness referred to in section 5.

7. **Appeals.**—(*1*) Any person summoned shall have the right to appeal to the court against the order of the Magistrate of the First Class binding him over to appear before the board.

(*2*) Any person who has been declared unfit by the board shall have the right to appeal to the court against such declaration.

(*3*) If on hearing the appeal the court finds that the order binding over the person or the declaration that he is unfit is untenable for any reason, that person shall be discharged and the board shall not proceed against that person any further.

(*4*) Nothing shall prevent the court from granting a stay pending disposal of any appeal.

(*5*) An appeal under this Act shall lie within fifteen days of the order or declaration as the case may be.

8. **Penalty for false information.**—Anyone giving information against any person that he is unfit without just or reasonable cause with a view to induce the board to proceed under this Act, and if that information is found to be false or fraudulent or given with a view to annoy, intimidate, defame or disgrace that person, shall be liable to a fine of five hundred rupees.

9. **Miscellaneous.**—(*1*) The Government shall have power to prescribe the method of sterilisation, the places where it should be done and the class of officers who will be authorised to perform sterilisation.

(*2*) No suit or prosecution or other legal action shall lie against any member of the board for anything which is in good faith done or intended to be done under this Act.

STATEMENT OF OBJECTS AND REASONS.

It is a social tragedy to allow lepers, syphilitics, the insane, the congenital idiots and the like to bring forth children. Their own lives are miserable. They should not be allowed, in the better and larger interests of society to multiply themselves. A positive action to prevent misery and to improve the general health of the nation is called for. A perceptible increase in these types of people, calls for a legal provision to control and avoid it. The Bill is intended to serve this purpose.

S. V. RAMASWAMY.

M. N. KAUL, Secy.

egistered No. C207

The

Calcutta Gazette

THURSDAY, DECEMBER 11, 1952

ART VI—Bills introduced in Parliament of India; Reports of Select Committees presented to Parliament; and Bills published before introduction in Parliament.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 11th ugust, 1952:—

BILL* No. 92 OF 1952.

A Bill to provide for the levy and collection of an estate duty.

BE it enacted by Parliament as follows:—

PART I.—PRELIMINARY.

1. **Short title, extent and commencement.**—(*1*) This Act may be called the state Duty Act, 1952.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, notification in the Official Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*1*) "affidavit of valuation" means the affidavit of valuation made under section 19-I of the Court-fees Act, 1870 (VII of 1870), in connection with an application for the grant of representation;

(*2*) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924);

(*3*) "company" includes any body corporate wheresoever incorporated;

(*4*) "controlled company" means a company which is deemed to be controlled by virtue of the rules made under sub-section (*4*) of section 17;

(*5*) "Controller" means a person appointed to be a Controller of Estate Duty under section 4 and includes a person appointed to be a Deputy Controller of Estate Duty or an Assistant Controller of Estate Duty;

(*6*) "deceased person" and "the deceased" mean a person dying after the commencement of this Act;

*The President has, in pursuance of clause (1) of article 117 and clause (1) of article 1 of the Constitution of India, recommended to the House of the People the introduction of the Bill.

(7) "estate duty" means estate duty under this Act;

(8) "executor" means the executor or administrator of a deceased per and includes, as regards any obligation under this Act, any per who takes possession of, or intermeddles with, the estate of deceased person or any part thereof;

(9) "general power" includes every power or authority enabling the don or other holder thereof to appoint or dispose of property as thinks fit, whether exercisable by instrument *inter vivos* or by w or both, but exclusive of any power exercisable in a fiducia capacity under a disposition not made by himself or exercisable mortgagee;

(10) "incumbrances" includes mortgages and terminable charges;

(11) "interest in expectancy" includes an estate in remainder or reversi and every other future interest whether vested or contingent, b does not include reversions expectant upon the determination leases;

(12) "legal representative" means a person who in law represents the esta of a deceased person, and includes any person who intermeddl with the estate of the deceased, and also includes, in the case whe the deceased was a coparcener of a Hindu family, the manager f the time being of the family;

(13) "power to appoint property" means power to determine the disposito of property of which the person invested with the power is not th owner;

(14) "prescribed" means prescribed by rules made under this Act;

(15) "property" includes any interest in property, movable or immovabl and the proceeds of sale thereof and any money or investment for th time being representing the proceeds of sale;

Explanation 1.—The creation by a person or with his consent of a deb or other right enforceable against him personally or against pro perty which he was or might become competent to dispose of, or t charge or burden for his own benefit, shall be deemed to have bee a disposition made by that person, and in relation to such a dispos tion the expression "property" shall include the debt or righ created.

Explanation 2.—The extinguishment at the expense of the deceased of debt or other right shall be deemed to have been a disposition mad by the deceased in favour of the person for whose benefit the deb or right was extinguished, and in relation to such a disposition th expression "property" shall include the benefit conferred by th extinguishment of the debt or right;

(16) "property passing on the death" includes propetry passing either immediately on the death or after any interval; either certainly o contingently, and either originally or by way of substitutive limita tion, and "on the death" includes "at a period ascertainable only b reference to the death";

(17) "representation" means probate of a will or letters of administration

(18) "settled property" means property which stands limited to, or in trus for, any persons, natural or juridical, by way of succession, whether the settlement took effect before or after the commencement of thi Act; and "settlement" means any disposition, including a dedicatio or endowment, whereby property is settled;

(19) "Valuer" means a Valuer appointed under section 4.

3. **Interpretation.**—(*1*) For the purposes of this Act—

(*a*) a person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property;

(*b*) a person shall be deemed to dispose of property to which he has acquired title, even if he has acquired title to it in one form and disposes of it in another;

(*c*) a disposition taking effect out of the interest of the deceased shall be deemed to have been made by him, whether the concurrence of any other person was or was not required;

(*d*) money which a person has a general power to charge on the property of another person shall be deemed to be an interest in that property of which the former has power to dispose;

(*e*) the domicile of a person shall be determined as if the provisions of the Indian Succession Act, 1925 (XXXIX of 1925), on the subject applied to him.

(*2*) In parts II and III of this Act, any reference to any interest disposed of, policy of insurance effected, annuity or other interest purchased or provided or to any gift, settlement, disposition or transfer of property made, shall be construed as including any such interest, policy, annuity, gift, settlement or disposition, as the case may be, whether it was disposed of, effected, purchased or provided, or made before or after the commencement of this Act.

4. **Estate duty authorities.**—(*1*) There shall be the following authorities for the purposes of this Act, namely :—

(*a*) the Board,

(*b*) Controllers of Estate Duty,

(*c*) Valuers.

(*2*) The Central Government may appoint as many Controllers of Estate Duty as it thinks fit and they shall, subject to the control of the Board, perform their functions in respect of such estates or classes of estates and such areas as are assigned to them by the Board.

(*3*) The Central Government shall, within twelve months after the commencement of this Act and may thereafter, from time to time, appoint a sufficient number of qualified persons to act as Valuers for the purposes of this Act and shall fix a scale of charges for the remuneration of such persons.

(*4*) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a Controller may appoint such executive or ministerial staff as may be necessary to assist him in the execution of his functions.

(*5*) All officers and persons employed in the execution of this Act, other than Valuers, shall observe and follow the orders, instructions and directions of the Board.

PART II.—IMPOSITION OF ESTATE DUTY.

Extent of charge.

5. **Levy of estate duty.**—(*1*) In the case of every person dying after the commencement of this Act, there shall, save as hereinafter expressly provided, be levied and paid upon the principal value ascertained as hereinafter provided of all property, settled or not settled, including agricultural land situate in the States specified in the Schedule to this Act, which passes on the death of such

person, a duty called "estate duty" at the rates fixed in accordance with section 34.

(2) The Central Government may, by notification in the Official Gazette, add the names of any other States to the Schedule in respect whereof resolutions have been passed by the Legislatures of those States that Parliament may legislate in respect of estate duty on agricultural lands situate in those States, and on the issue of any such notification the States so added shall be deemed to be States specified in the Schedule within the meaning of sub-section (1).

Property which is deemed to pass.

6. Property within disposing capacity.—Property which the deceased was at the time of his death competent to dispose of shall be deemed to pass on his death.

7. Interests ceasing on death.—(1) Subject to the provisions of this section, property in which the deceased or any other person had an interest ceasing on the death of the deceased shall be deemed to pass on the deceased's death to the extent to which a benefit accrues or arises by the cessor of such interest, including, in particular, a coparcenary interest in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law.

(2) If a member of a Hindu coparcenary governed by the Mitakshara school of law dies, then the provisions of sub-section (1) shall not apply with respect to the interest of the deceased in the coparcenary property unless the deceased had completed his eighteenth year, or unless, at the time of his death, his father or other male ascendant in the male line was not a coparcener of the same family.

Explanation.—Where the deceased was also a member of a sub-coparcenary (within the coparcenary) possessing separate property of its own, the provisions of this sub-section shall have effect separately in respect of the coparcenary and the sub-coparcenary.

(3) If a member of any tarwad or *tavazhi* governed by the Marumakkattayam rule of inheritance or a member of a *kutumba* or *kavaru*, governed by the Aliyasantana rule of inheritance dies, then the provisions of sub-section (1) shall not apply with respect to the interest of the deceased in the property of the *tarwad, tavazhi, kutumba* or *kavaru*, as the case may be, unless the deceased had completed his eighteenth year.

(4) The provisions of sub-section (1) shall not apply to the property in which the deceased or any other person had an interest only as holder of an office or recipient of the benefits of a charity, or as a corporation sole.

8. Gifts *mortis causa*.—Property taken as a gift made in contemplation of death shall be deemed to pass on the donor's death.

Explanation.—In this section, the expression "gift made in contemplation of death" has the same meaning as in section 191 of the Indian Succession Act, 1925 (XXXIX of 1925).

9. Gifts within a certain period before death.—Property taken under a disposition made by the deceased purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust, settlement upon persons in succession, or otherwise, which shall not have been *bona fide* made two years or more before the death of the deceased shall be deemed to pass on the death:

Provided that in the case of gifts made for public charitable purposes the period shall be six months.

10. Gifts whenever made where donor not entirely excluded.—Property taken under any gift, whenever made, shall be deeemd to pass on the donor's death to the extent that *bona fide* possession and enjoyment of it was not immediately assumed by the donee and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise:

Provided that the property shall not be deemed to pass by reason only that it was not, as from the date of the gift, exclusively retained as aforesaid, if, by means of the surrender of the reserved benefit or otherwise, it is subsequently enjoyed to the entire exclusion of the donor or of any benefit to him for at least two years before the death.

11. Limited interests disposed of within a certain period before death.—(*1*) Subject to the provisions of this section, where an interest limited to cease on a death has been disposed of or has determined whether by surrender, assurance, divesting, forfeiture or in any other manner (except by the expiration of a fixed period at the expiration of which the interest was limited to cease), whether wholly or partly, and whether for value or not, after becoming an interest in possession,—

(*a*) if apart from the disposition or determination the property in which the interest subsisted would have passed on the death under section 5, that property shall be deemed by virtue of this section to be included as to the whole thereof in the property passing on the death; or

(*b*) if apart from the disposition or determination the property in which the interest subsisted would have been deemed by virtue of section 7 to be included to a particular extent in the property passing on the death, the property in which the interest subsisted shall be deemed by virtue of this section to be included to that extent in the property passing on the death.

(*2*) Where the relevant disposition or determination was *bona fide* effected or suffered not less than two years before the death (or, if it was effected or suffered for public charitable purposes, not less than six months before the death), the preceding sub-section shall not have effect—

(*a*) if *bona fide* possession and enjoyment of the property in which the interest subsisted was assumed immediately thereafter by the person becoming entitled by virtue of or upon the disposition or determination and thenceforward retained to the entire exclusion of the person who had the interest and of any benefit to him by contract or otherwise: or

(*b*) in the case of a partial determination, if the conditions specified in the preceding paragraph were not satisfied by reason only of the retention or enjoyment by the deceased of possession of some part of the property, or of some benefit, by virtue of the provisions of the instrument under which he had the interest:

Provided that nothing in this sub-section shall be construed as affecting any charge of estate duty arising otherwise than by virtue of the provisions of the preceding sub-section.

(*3*) In the application of sub-section (*1*) to a case in which an incumbrance on the property in which the interest in question subsisted has been created by associated operations (as hereinafter defined in section 26) which included a disposition of that interest, references to that property shall be construed as references to that property free from the incumbrance, except in a case in which the incumbrance was created for consideration in money or money's worth which was applied for purposes calculated to maintain or increase the value of that property, and, in that case, shall be construed as references to that property

subject to the incumbrance to the extent to which the consideration was so applied.

12. Settlements with reservation.—Property passing under any settlement made by the deceased by deed or any other instrument not taking effect as a will whereby an interest in such property for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor or whereby the settlor may have reserved to himself the right by the exercise of any power, to restore to himself or to reclaim the absolute interest in such property shall be deemed to pass on the settlor's death.

Explanation.—A settlor reserving an interest in the settled property for the maintenance of any of his relatives (as defined in section 26) or of himself and any of his relatives shall be deemed to reserve an interest for himself within the meaning of this section.

13. Joint investments.—Where a person, having been absolutely entitled to any property or to the funds with which any property was purchased, has caused it to be transferred to or vested in himself and any other person jointly, whether by disposition or otherwise, either by himself alone, or in concert, or by arrangement, with any other person so that the beneficial interest in some part of that property passes or accrues by survivorship on his death to the other person, the whole of that property shall be deemed to pass on the death.

14. Policies kept up for a donee.—(*1*) Money received under a policy of insurance effected by any person on his life, where the policy is wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money in proportion to the premiums paid by him, where the policy is partially kept up by him for such benefit, shall be deemed to pass on the death of the assured.

Explanation.—A policy of insurance on the life of a deceased person effected by virtue or in consequence of a settlement made by the deceased shall be treated as having been effected by the deceased.

(*2*) For the purposes of sub-section (*1*), so much of the premiums paid on any policy of insurance as was, by virtue or in consequence of a settlement made by the deceased, paid out of property, whether or not provided by the deceased, comprised in the settlement or out of income, whether or not provided by the deceased, arising under the settlement, shall be treated as having been paid by the deceased:

Provided that any payments which were not made either out of property provided directly or indirectly by the deceased for the purposes of the settlement, or out of property representing that property, or out of income provided directly or indirectly by the deceased whether arising from such property or otherwise, shall not be treated as having been made by the deceased if the Controller is satisfied that those payments were not made as part of any reciprocal arrangements between the deceased and any other person.

(*3*) For the purposes of this section,—

(*a*) the expression "settlement" includes any disposition, trust, covenant, agreement or arrangement; and

(*b*) a person shall be deemed to have made a settlement if he has made or entered into the settlement directly or indirectly, and in particular (but without prejudice to the generality of the foregoing words of this clause) if he has provided or undertaken to provide funds directly or indirectly for the purposes of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

15. Annuity or other interest purchased or provided by the deceased.—Any annuity or other interest, including moneys payable under a policy of life assurance, purchased or provided by the deceased, either by himself alone or in concert or by arrangement with any other person shall be deemed to pass on his death to the extent of the beneficial interest accruing or arising, by survivorship or otherwise, on his death.

Explanation.—The extent of the beneficial interest must be ascertained without regard to any interest in expectancy which the beneficiary may have had therein before the death.

16. Annuity or other interest purchased or provided out of property derived from the deceased.—(*1*) Section 15 shall have effect in relation to any annuity or other interest that was purchased or provided wholly or in part by any person who was at any time entitled to, or amongst whose resources there was at any time included, any property derived from the deceased, as if that annuity or other interest had been provided by the deceased, or, if it is proved to the satisfaction of the Controller that the application of all the property derived from the deceased would have been insufficient to provide the whole of that annuity or other interest, as if a similar annuity or interest of an amount reduced to an extent proportionate to the insufficiency proved had been provided by the deceased:

Provided that for the purpose of determining whether there would have been any such insufficiency as aforesaid, and the extent thereof, there shall be excluded from the property derived from the deceased any part thereof as to which it is proved to the satisfaction of the Controller that the disposition of which it, or the property which it represented, was the subject-matter, was not made with reference to, or with a view to enabling or facilitating, the purchase or provision of the annuity or other interest, or the recoupment in any manner of the cost thereof.

(2) In this section the following expressions have the meanings hereby assigned to them respectively, namely:—

(*a*) "property derived from the deceased" means any property which was the subject-matter of a disposition made by the deceased, either by himself alone or in concert or by arrangement with any other person, otherwise than for full consideration in money or money's worth paid to him for his own use or benefit, or which represented any of the subject-matter of such a disposition, whether directly or indirectly, and whether by virtue of one or more intermediate dispositions and whether any such intermediate disposition was or was not for full or partial consideration:

Provided that where the first-mentioned disposition was for full consideration in money or money's worth paid to the deceased for his own use or benefit and it is proved to the satisfaction of the Controller that the disposition was not part of associated operations which included—

(*a*) a disposition by the deceased, either by himself alone or in concert or by arrangement with any other person, otherwise than for full consideration in money or money's worth paid to the deceased for his own use or benefit; or

(*b*) a disposition by any other person operating to reduce the value of the property of the deceased;

then, in considering whether estate duty should be charged the said first-mentioned disposition shall be left out of account as if this provision did not apply in relation to it;

(*b*) "disposition" includes any trust, covenant, agreement or arrangement; and

(*c*) "subject-matter" includes, in relation to any disposition, any annual o periodical payment made or payable under or by virtue of th disposition.

(*3*) For the purpose of section 33 the deceased shall be deemed to have ha an interest in any property included by virtue of this section in the propert passing on the death of the deceased.

Special provisions relating to transfers to companies.

17. Property transferred to a controlled company.—(*1*) Where the deceasec has made to a controlled company a transfer of any property (other than ar interest limited to cease on his death or property which he transferred in a fiduciary capacity), and any benefits accruing to the deceased from the company accrued to him in the three years ending with his death, the assets of the company shall be deemed for the purposes of estate duty to be included in the property passing on his death to an extent determined in accordance with sub-section (*2*).

(*2*) The extent to which the assets of the company are to be deemed to be included as aforesaid shall be the proportion ascertained by comparing the aggregate amount of the benefits accruing to the deceased from the company in the last three accounting years with the aggregate amount of the net income of the company for the said years:

Provided that—

(*a*) where, in any of the said accounting years, the company sustained a loss, the amount of that loss shall be deducted in ascertaining the said aggregate net income of the company;

(*b*) where the company came into existence in the last year but one, or in the last, of the said accounting years, the references in this sub-section to the said accounting years shall be construed as references to the last two, or, as the case may be, the last, of those years.

(*3*) The assets of the company which are deemed to be included in the property passing on the death of the deceased by virtue of this section shall include any assets thereof which have been disposed of or distributed by the company at any time between the beginning of the first of the accounting years aforesaid and the death of the deceased either—

(*a*) in or towards satisfaction of rights attaching to shares in or debentures of the company, or

(*b*) otherwise howsoever except as follows, that is to say, by way of sale for full consideration in money or money's worth received by the company for its own use and benefit, or in or towards discharge of taxes or rates or other liability imposed by or under an enactment, or in or towards discharge of a fine or penalty or a liability for tort incurred without collusion with the injured party, including assets which have been so disposed of or distributed in a winding up, whether continuing at or completed before the death:

Provided that this sub-section shall not apply to assets disposed of or distributed by way of payments from which income-tax was deductible, or which were assessable to income-tax, of amounts not exceeding in the aggregate, as respects payments made in any accounting year or in the period between the end of the last accounting year and the death of the deceased, the amount of the income of the company for that year or period.

(4) The Board may make rules—

(a) prescribing the class of companies which shall be deemed to be controlled companies and the class of dispositions or operations which shall be deemed to be transfers;

(b) prescribing the matters to be treated as benefits accruing to the deceased from such a company, the manner in which their amount is to be determined, and the time at which they are to be treated as accruing;

(c) prescribing the manner in which the net income and the value of the assets of such a company are to be determined;

(d) prescribing the manner in which the accounting year is to be reckoned;

(e) prescribing the manner in which the shares and debentures of such a company passing upon the death of the deceased are to be valued for estate duty;

(f) prescribing the conditions upon which and the extent to which transactions in the name of such a company shall be deemed to be *bona fide* transactions for full consideration; and

(g) generally for the purpose of checking the avoidance of estate duty through the machinery of such a company:

Provided that all rules made under this sub-section shall be laid before the House of the People not less than fifteen days before the date of their final publication.

(5) For the purposes of section 33 the deceased shall be deemed to have had an interest in the property deemed by virtue of this section to be included in the property passing on his death.

18. Duty of company and officers of company to give information to Controller on death of transferor.—(1) Where the deceased has made a transfer of property to a controlled company as described in section 17 the company shall be under obligation to inform the Controller within one month from the date of the death of the deceased, of the death, of the fact that the deceased made a transfer of property to the company, and of the fact that benefits accrued to the deceased from the company, and every person who was an officer of the company at that date, or if the company has been wound up and dissolved before that date, who was an officer of the company at any time, shall be under the like obligation as respects such of the facts aforesaid as are within his knowledge, unless he knows, or has reasonable cause for believing, that the information in question has already been given to the Controller by the company or some other person.

(2) If the company or any such person as aforesaid who is under obligation by virtue of the preceding sub-section to give any information to the Controller makes default in the performance of that obligation, the Controller may impose upon the defaulter a penalty not exceeding one thousand rupees.

19. Collection and incidence of duty under section 17.—(1) The following persons shall be accountable for the duty payable on the death of the deceased by virtue of section 17, namely:—

(a) the company;

(b) any person (other than a *bona fide* purchaser for full consideration in money or money's worth received by the company for its own use and benefit) who receives, whether directly from the company or otherwise, or disposes of, any assets which the company had, whether as capital or as income, at the death or at any time thereafter;

(*c*) any person who received any distributed assets of the company on their distribution:

Provided that a person shall not,—

(*i*) by virtue of clause (*b*), be accountable in respect of any assets for any duty in excess of the value of those assets, or

(*ii*) by virtue of clause (*c*), be accountable in respect of any assets for more than a part of the duty bearing to the whole thereof the same proportion as the value of the distribution of those assets bears to the principal value of the assets of the company passing on the death by virtue of section 17.

Explanation.—For the purposes of this sub-section the expressions "distributed assets" and "assets of the company passing on the death" do not include any distributed assets of the company which the deceased received on their distribution; and a person who, having received any distributed assets of the company, has died before the deceased shall be deemed to have been a person accountable by virtue of clause (*c*).

(*2*) Where a company incorporated outside the territories to which this Act extends is accountable for any duty by virtue of the preceding sub-section or of this sub-section, every person who is a member of that company at the death shall also be accountable for a rateable part of that duty in proportion to the value of his interest in that company.

(*3*) A person accountable for any duty by virtue of this section shall, for the purpose of raising and paying the duty, have all the powers conferred on accountable parties.

(*4*) On a winding up of the company, sub-section (*1*) of section 230 of the Indian Companies Act, 1913 (VII of 1913), shall have effect as if there were included in clause (*a*) of that sub-section a reference to any duty payable in respect of assets of the company passing on a death by virtue of section 16 of this Act, and section 129 of the Indian Companies Act, 1913, shall have effect accordingly.

(*5*) The duty payable on the death of the deceased by virtue of section 17 shall be a first charge by way of floating security on the assets which the company had at the death or has at any time thereafter, and any part of the duty for which by virtue of clause (*c*) of sub-section (*1*) any person is accountable in respect of any distributed assets shall be a first charge also on those assets:

Provided that nothing in this sub-section shall operate to make any property chargeable as against a *bona fide* purchaser thereof for valuable consideration without notice.

(*6*) Where any duty has been—

(*a*) paid by a person accountable therefor by virtue only of clause (*c*) of sub-section (*1*); or

(*b*) raised by virtue of sub-section (*5*) out of any distributed assets charged therewith;

that person or, as the case may be, the person who was entitled to those assets subject to the charge, may (without prejudice to any right of contribution or indemnity which he may have apart from this sub-section) recover the amount of the duty so paid or raised as aforesaid from any person who is accountable therefor otherwise than by virtue of the said clause (*c*).

(*7*) No part of the duty paid by the company shall be recoverable by it from any person on the ground only that he is entitled to any interest in, or to any sum charged on, the assets which the company had at the death of the deceased.

(8) The provisions of sub-sections (1) and (3) of section 50 shall not have effect in relation to the duty payable by virtue of section 17.

PART III.—EXCEPTIONS FROM THE CHARGE OF DUTY.

20. Foreign property.—(1) There shall not be included in the property passing on the death of the deceased—

(a) immovable property situated outside the territories to which this Act extends or immovable property consisting of agricultural land situated in any State other than the States specified in the Schedule to this Act;

(b) movable property situated outside the territories to which this Act extends at the time of the death unless—

(i) in the case of any property, whether settled or not, the deceased was domiciled in the said territories at the time of his death; or

(ii) in the case of settled property of which the deceased was a life tenant, the settlor was domiciled in the said territories at the date the settlement took effect.

(2) The Board may make rules regulating the manner in which the nature and locality of different classes of assets shall be determined for the purposes of this section.

21. Property held by the deceased as trustee.—Property passing on the death of the deceased shall not be deemed to include property held by the deceased as trustee for another person under a disposition not made by the deceased or under a disposition made by the deceased where (whether by virtue of the original disposition or of a subsequent surrender of any benefit originally reserved to the deceased or otherwise) possession and enjoyment of the property was *bona fide* assumed by the beneficiary at least two years before the death and thenceforward retained by him to the entire exclusion of the deceased or of any benefit to the deceased by contract or otherwise.

22. Interest failing before becoming an interest in possession.—In the case of settled property where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and one or more subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death by reason only of the failure or determination of that interest.

Explanation 1.—Where property is settled by a person on himself for life and after his death on any other person, with an ultimate reversion of an absolute interest or absolute power of disposition to the settlor, the property shall not be deemed to pass to the settlor on the death of such other person by reason only that the settlor being then in possession of the property as tenant for life becomes, in consequence of such death, entitled to the immediate reversion or acquires an absolute power to dispose of the whole property.

Explanation 2.—Where the interest of a person in settled property consists of an interest in the residue or part of the residue of an estate of a testator or intestate and the said estate continues to be under administration until the death of the person, the said interest of the person in the residue or part of the residue shall be deemed to have become an interest in possession on the date as from which the income from the residue or part of the residue would have been attributable to that interest if the residue had been ascertained immediately after the death of the testator or intestate.

23. Property reverting to disponer.—(1) Where by a disposition of any property an interest is conferred on any person, other than the disponer, for the

life of such person or determinable on his death and such person enters into possession of the interest, and thenceforward retains possession of it to the entire exclusion of the disponer or of any benefit to him by contract or otherwise, and the only benefit which the disponer retains in the property, is subject to such life or determinable interest and no other interest, even contingent, is created by the disposition, then, on the death of such person, the property shall not be deemed to pass by reason only of its reverter to the disponer in his life time.

(2) Where by a disposition of any property any such interest as is mentioned in sub-section (1) is conferred on two or more persons either severally or jointly or in succession, sub-section (1) shall apply in like manner as where the interest is conferred on one person:

Provided that sub-section (1) shall not apply where such person or persons taking the said life or determinable interest had at any time prior to the disposition been himself or themselves competent to dispose of the said property.

24. Income of settled property acquired on death of spouse.—Where a husband or wife is entitled, either solely or jointly with the other, to the income of any property settled by the other under a disposition which took effect before the commencement of this Act and on his or her death the survivor becomes entitled to the income of the property (as distinguished from the property itself) settled by such survivor, estate duty shall not be payable in respect of that property until the death of that survivor.

25. Property passing by reason of a bona fide purchase for full or partial consideration in money.—(1) Subject to the provisions of section 26 and section 44 estate duty shall not be payable in respect of property passing on the death of the deceased by reason only of a *bona fide* purchase from the person under whose disposition the property passes, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee.

(2) Where any such purchase was made, or lease or annuity granted, for partial consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

26. Dispositions in favour of relatives.—(1) Where a person dying after the commencement of this Act has made a disposition of property in favour of a relative of his, the creation or disposition in favour of the deceased of an annuity or other interest limited to cease on the death of the deceased or of any other person shall not be treated for the purposes of section 25 or section 42 as consideration for the disposition made by the deceased.

(2) If the deceased has made in favour of a controlled company a disposition which, if it had been made in favour of a relative of his, would have fallen within sub-section (1), this section shall have effect in like manner as if the disposition had been made in favour of a relative of his, unless it is shown to the satisfaction of the Controller that no relative of the deceased was, at the time of the disposition or subsequently during the life of the deceased, a member of the company.

Explanation.—For the purposes of this sub-section a person who is, or is deemed by virtue of this provision to be, a member of a controlled company which is a member of another such company shall be deemed to be a member of that other company.

(3) Where there have been associated operations effected with reference to the receiving by the deceased of any payment in respect of such an annuity or other interest as is mentioned in sub-section (1), or effected with a view to enabling him to receive or to facilitating the receipt by him of any such payment, this section shall have effect in relation to each of those associated operations as it has effect in relation to the creation or disposition in favour of the deceased of such an annuity or other interest.

(4) In this section—

(i) "relative" means, in relation to the deceased,—

(a) the wife or husband of the deceased,

(b) the father, mother, children, uncles, and aunts, of the deceased, and

(c) any issue of any person falling within either of the preceding sub-clauses and the other party to a marriage with any such person or issue;

(ii) reference to "children" and "issue" include reference to illegitimate children and to adopted children;

(iii) "annuity" includes any series of payments, whether inter-connected or not, whether of the same or of varying amounts, and whether payable at regular intervals or otherwise, and payments of dividends or interests on shares in or debentures of a company shall be treated for the purposes of this section as a series of payments constituting and annuity limited to cease on a death if the payments are liable to cease on the death, or the amounts thereof are liable to be reduced on the death, by reason directly or indirectly of the extinguishment or any alteration of rights attaching to, or of the issue of any shares in or debentures of a company;

(iv) "associated operations" means any two or more operations of any kind being,—

(a) operations which affect the same property, or one of which affects some property and the other or others of which affect property which represents, whether directly or indirectly, that property, or income arising from that property, or any property representing accumulations of any such income; or

(b) any two operations of which one is effected with reference to the other, or with a view to enabling it to be effected or to facilitating its being effected, and any third operation having a like relation to either of those two, and any fourth operation having a like relation to any of those three, and so on;

whether those operations are effected by the same person or by different persons, whether they are connected otherwise than as aforesaid or not, and whether they are contemporaneous or any of them precedes or follows any other.

27. Effect of new or increased rates of duty on certain prior sales and mortgages.—Where an interest in expectancy in any property has, whether before or after the commencement of this Act, been *bona fide* sold or mortgaged for full consideration in money or money's worth, and the rates of estate duty in force in the case of a person dying when the interest falls into possession are

higher than the rates in force, if any, in the case of a person dying at the time of the sale or mortgage, then—

(*a*) no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than the duty, if any, which would have been payable if the rates of estate duty applicable had been the rates in force, if any, in the case of a person dying at the time of the sale, or mortgage, and

(*b*) in the case of a mortgage, any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

28. Settled property in respect of which since the date of the settlement estate duty has been paid on the death of the deceased's spouse.—If estate duty has already been paid in respect of any settled property since the date of the settlement, on the death of one of the parties to a marriage, the estate duty shall not be payable in respect thereof on the death of the other party to the marriage, unless the latter was at the time of his death, or had been at any time during the continuance of the settlement, competent to dispose of such property, and, if on his death subsequent limitations under the settlement take effect in respect of such property, was *sui juris* at the time of his death, or had been *sui juris* at any time while so competent to dispose of the property.

29. Agreement for avoidance or relief of double taxation with respect to estate duty.—The Central Government may enter into an agreement with the Government of any reciprocating country for the avoidance or relief of double taxation with respect to estate duty leviable under this Act and under the corresponding law in force in the reciprocating country and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.

Explanation.—The expression "reciprocating country" for the purposes of this Act means any country which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating country.

30. Allowance for quick succession to land or a business.—Where the Board is satisfied that estate duty has become payable on any property consisting of land or on a business (not being a business carried on by a company) or any interest in such land or business passing upon the death of any person, and that subsequently within five years estate duty has again become payable on the same property or any part thereof passing on the death of the person to whom the property passed on the first death, the amount of estate duty payable on the second death in respect of the property so passing shall be reduced as follows:—

Where the second death occurs within one year of the first death, by 50 per cent.;

Where the second death occurs within two years of the first death, by 40 per cent.;

Where the second death occurs within three years of the first death, by 30 per cent.;

Where the second death occurs within four years of the first death, by 20 per cent.;

Where the second death occurs within five years of the first death, by 10 per cent.;

Provided that where the value on which the duty is payable of the property on the second death exceeds the value on which the duty was payable of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.

31. Exemption of coparcenary interest of a Hindu widow dying within seven years of her husband's death.—Where on the death of a member of a Hindu coparcenary, his interest in the coparcenary property has devolved on his widow, then, if the widow dies within seven years of her husband's death and the interest aforesaid devolves upon the members of the coparcenary or any of them, no estate duty shall be leviable in respect of the passing of the interest aforesaid on the death of the widow, if and in so far as estate duty had been paid in respect of the passing of such interest on the death of her husband.

32. Exemptions, reductions, and other modifications.—The Central Government may, by notification in the Official Gazette, make any exemption, reduction in rate or other modification in respect of estate duty in favour of any class of property or the whole or any part of the property of any class of persons.

PART IV.—AGGREGATION OF PROPERTY AND RATES OF DUTY.

33. Aggregation.—(*1*) For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing in respect of which estate duty is leviable shall be aggregated so as to form one estate and the duty shall be levied at the proper graduated rate on the principal value thereof:

Provided that any property so passing, in which the deceased never had an interest, not being a debt or right or benefit that is treated as property by virtue of the *Explanations* to clause (*15*) of section 2, shall not be aggregated with any other property, but shall be an estate by itself and the estate duty shall be leviable at the proper graduated rate on the principal value thereof.

(*2*) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(*3*) Property passing on any death shall not be aggregated more than once nor shall estate duty in respect thereof be levied more than once on the same death.

34. Rates of duty to be according to Central Act.—The rates of estate duty shall be according to such scale as may be fixed by an Act of Parliament.

PART V.—VALUE CHARGEABLE.

35. Principal value how to be estimated.—(*1*) The principal value of any property shall be estimated to be the price which, in the opinion of the Controller it would fetch if sold in the open market at the time of the deceased's death.

(*2*) In estimating the principal value under this section the Controller shall fix the price of the property according to the market price at the time of the deceased's death and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole propetry is to be placed on the market at one and the same time:

Provided that where it is proved to the satisfaction of the Controller that the value of the property has depreciated by reason of the death of the deceased, the depreciation shall be taken into account in fixing the price.

36. Valuation of shares in a private company where alienation is restricted.—Where the articles of association of a private company contain restrictive provisions as to the alienation of shares, the value of the shares, if not ascertainable by reference to the value of the total assets of the company, shall be estimated to be what they would fetch if they could be sold in the open market on the terms of the purchaser being entitled to be registered as holder subject to the articles, but the fact that a special buyer would for his own special reasons give a higher price than the price in the open market shall be disregarded.

37. Valuation of interests in expectancy.—Where an estate includes an interest in expectancy, estate duty in respect of that interest shall be paid, at the option of the person accountable for the duty, either with the duty in respect of the rest of the estate or when the interest falls into possession, and if the duty is not paid with the estate duty in respect of the rest of the estate, then—

(*a*) for the purpose of determining the rate of estate duty in respect of the rest of the estate, the value of the interest shall be its value at the date of the death of the deceased; and

(*b*) the rate of estate duty in respect of the interest when it falls into possession shall be calculated according to its value when it falls into possession, together with the value of the rest of the estate as previously ascertained.

38. Valuation of benefits from interests ceasing on death.—The value of the benefit accruing or arising from the cesser of an interest ceasing on the death of the deceased shall—

(*a*) if the interest extended to the whole income of the property, be the principal value of that property; and

(*b*) if the interest extended to less than the whole income of the property, be the principal value of an addition to the property equal to the income to which the interest extended.

39. Valuation to be made by the Controller.—Subject to the provisions of this Act, the value of any property for the purpose of estate duty shall be ascertained by the Controller in such manner and by such means as he thinks fit and if he authorises a person to inspect any property and to report the value thereof for the purposes of this Act, that person may enter upon the property and inspect it as such reasonable times as the Controller considers necessary.

40. Costs of valuation.—Where the Controller requires any person to report on the value of any property for the purposes of this Act, the reasonable costs of such valuation shall be defrayed by the Controller.

41. Controller may accept and certify valuation when convenient.—The Controller on application from a person accountable for the duty on any property forming part of an estate shall, where he considers that it can conveniently be done, certify the amount of the valuation accepted by him for any class or description of property forming part of such estate.

PART VI.—DEDUCTIONS.

42. Reasonable funeral expenses and, with some exceptions, debts and incumbrances to be allowed for in determining chargeable value of estate.—In determining the value of an estate for the purpose of estate duty, allowance shall be made for reasonable funeral expenses and for debts and incumbrances; but an allowance shall not be made—

(*a*) for debts incurred by the deceased, or incumbrances created by a disposition made by the deceased, unless, subject to the provisions of section 26, such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest, or,

(*b*) for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained, or,

(*c*) more than once for the same debt or incumbrance charged upon different portions of the estate,

d any debt or incumbrance for which an allowance is made shall be deducted m the value of the property liable thereto.

43. **Limitations on debts deductible.**—Where a debt or incumbrance has been urred or created in whole or in part for the purpose of or in consideration for purchase or acquisition or extinction whether by operation of law or otherwise any interest in expectancy in any property passing or deemed to pass on the ath of the deceased and any person whose interest in expectancy is so purchased, quired, or extinguished becomes (under any disposition made by or through volution of law from, or under the intestacy of, the deceased) entitled to any terest in that property, then in determining the value of the estate of the ceased for the purpose of estate duty no allowance shall be made in respect such debt or incumbrance, and any property charged with any such debt incumbrance shall be deemed to pass freed from that debt or incumbrance:

Provided that—

(*a*) if part only of such debt or incumbrance was incurred or created for such purpose or as such consideration as aforesaid, this provision shall apply to that part of such debt or incumbrance only; and

(*b*) if a person whose interest in expectancy in the property so purchased, acquired or extinguished becomes entitled to an interest in part only of that property, this provision shall apply only to such part of the debt or incumbrance as bears the same proportion to the whole debt or incumbrance as the value of the part of the property to an interest in which he becomes entitled bears to the value of the whole of that property.

44. **Further limitations.**—(*1*) Any allowance which, but for this provision, ould be made under section 42 for a debt incurred by the deceased as mentioned in clause (*a*) of that section, or for an incumbrance created by a disposition made by the deceased as therein mentioned, shall be subject to abatement o an extent proportionate to the value of any of the consideration given therefor hich consisted of—

(*a*) property derived from the deceased; or

(*b*) consideration not being such property as aforesaid, but given by any person who was at any time entitled to, or amongst whose resources there was at any time included, any property derived from the deceased:

Provided that if, where the whole or a part of the consideration given consisted of such consideration as is mentioned in clause (*b*) of this sub-section, it is proved to the satisfaction of the Controller that the value of the consideration given, or of that part thereof, as the case may be, exceeded that which could have been rendered available by application of all the property derived from the deceased, other than such (if any) of that property as is included in the consideration given or as to which the like facts are proved in relation to the giving of the consideration as are mentioned in the proviso to sub-section (*1*) of section 16 in relation to the purchase or provision of an annuity or other interest, no abatement shall be made in respect of the excess.

(*2*) Money or money's worth paid or applied by the deceased in or towards satisfaction or discharge of a debt or incumbrance in the case of which sub-section (*1*) would have had effect on his death if the debt or incumbrance had not been satisfied or discharged, or in reduction of a debt or incumbrance in the case of which that sub-section has effect on his death, shall, unless so paid or

applied three years before the death, be treated as property deemed to included in the property passing on the death and estate duty shall, notwit standing anything in section 24, be payable in respect thereof accordingly.

(3) The provisions of sub-section (2) of section 16 shall have effect for t purpose of this section as they have effect for the purpose of that section.

45. Debts to persons resident out of India not to be deducted in fi instance except from duty-paid property outside India.—An allowance sh not be made in the first instance for debts due from the deceased to persons reside out of the territories to which this Act extends (unless contracted to be pa in the said territories or charged on properties situate within the said territories except out of the value of any property of the deceased situate out of the sai territories in respect of which estate duty is paid; and there shall be no repay ment of estate duty to respect of any such debts, except to the extent to which is shown to the satisfaction of the Controller that the property of the decease situate in the foreign country in which the person to whom such debts are du resides is insufficient for their payment.

46. Cost of realising or administering foreign property may be allowed fo within certain limits.—Where the Controller is satisfied that any additiona expense in administering or in realising property has been incurred by reason o the property being situate out of the territories to which this Act extends, he ma make an allowance from the value of the property on account of such expens not exceeding in any case five per cent. on the value of the propetry.

47. Allowance for duty paid in a non-reciprocating country.—Where an property passing on the death of the deceased is situate in a non-reciprocating country and the Controller is satisfied that by reason of such death any duty is payable in that country in respect of that property, he may make an allowance of the whole or any part of the amount of that duty from the value of the property.

Explanation.—In this section, the expression "non-reciprocating country" means any country other than India which has not been declared to be a reciprocating country for the purposes of this Act.

PART VII.—COLLECTION OF THE DUTY.

48. Method of collection of duty.—Estate duty may be collected by such means and in such manner as the Board may prescribe.

49. Payment of duty may be accepted in prescribed Government securities —The Board may prescribe that Government securities shall be accepted i payment of estate duty on such terms as it thinks fit.

50. Persons, accountable, and their duties and liabilities.—(1) Where an property passes on the death of the deceased—

(a) every legal representative to whom such property so passes for any beneficial interest in possession or in whom any interest in the property so passing is at any time vested,

(b) every trustee, guardian, committee or other person in whom any interest in the property so passing or the management thereof is at any time vested, and

(c) every person in whom any interest in the property so passing is vested in possession by alienation or other derivative title,

shall be accountable for the whole of the estate duty on the property passing on the death but shall not be liable for any duty in excess of the assets of the

eceased which he actually received or which, but for his own neglect or efault, he might have received:

Provided that nothing in this section shall render a person accountable or duty who acts merely as agent or bailiff for another person in the manage-ient of property.

(2) Notwithstanding anything contained in sub-section (1), where an heir-:-law proves to the satisfaction of the Controller that some other person is in diverse possession of any assets of the deceased, the heir-at-law shall not be :countable for the portion of the estate duty payable in respect of such assets:

Provided that he shall become so accountable if, and to the extent that, he ibsequently recovers possessions of such assets.

(3) Every person accountable for estate duty under the provisions of this :ction shall, within six months of the death of the deceased or such later time s the Controller may allow, deliver to the Controller and verify to the best f his knowledge and belief, an account of all the property in respect of which state duty is payable.

(4) Where the person accountable knows of any property which he has not ncluded in his account because he does not know its amount or value, he may :ate that such property exists, but he does not know the amount or value iereof and that he undertakes, as soon as the amount and value are ascertained) bring a supplementary account thereof and to pay both the duty for which e may be liable in respect of such property and any further duty payable by :ason thereof for which he may be liable in respect of the property mentioned i the original account.

(5) Where two or more persons are accountable, whether in the same apacity or in different capacities, for estate duty in respect of any property assing on the death of the deceased, they shall be liable jointly and severally or the whole of the estate duty on the property so passing.

51. Every person believed to be in possession to deliver statement of articulars of property as required by Controller.—Every person accountable or estate duty, every company to which, in the opinion of the Controller, a ansfer of property has been made by the deceased as mentioned in section 17, very person who is or was at any time an officer or auditor of such a com-any, and every person whom the Controller believes to have taken possession f or administered any part of the estate in respect of which duty is leviable i the death of the deceased, or of the income of any part of such estate shall, required by the Controller, deliver to him and verify, to the best of his nowledge and belief, a statement of such particulars together with such :counts, documents, evidence or information as the Controller may require :lating to any property which he has reason to believe to form part of an state in respect of which estate duty is leviable on the death of the deceased.

52. Penalty for default.—Any person who without reasonable cause has iled to comply with the provisions of section 50 or section 51 or has failed) comply with the said provisions within the time allowed, shall be liable to ay a penalty of one thousand rupees or a sum equal to double the amount of state duty, if any, remaining unpaid for which he is accountable, according i the Controller may direct:

Provided that the Controller may reduce the penalty in any particular case.

53. Executor to specify all chargeable property with affidavit of valuation. -In all cases in which a grant of representation is applied for within six months f the death of the deceased—

(a) the executor of the deceased shall, to the best of his knowledge and belief, specify in an appropriate account annexed to the affidavit of valuation filed in court under section 19-I of the Court-fees Act,

1870 (VII of 1870), all the property in respect of which estate duty is payable upon the death of the deceased and shall deliver a copy of the affidavit with the account to the Controller, and

(*b*) no order entitling the applicant to the grant of representation shall be made upon his application until he has delivered the account prescribed in clause (*a*) and has produced a certificate from the Controller under section 55 or section 61 that the estate duty payable in respect of the property included in the account has been or will be paid, or that none is due, as the case may be.

54. Estate duty when due and how and when to be collected.—(*1*) Estate duty shall be due from the date of the death of the deceased and shall be collected upon the account delivered under section 50 or clause (*a*) of section 53 or the account prepared under sub-section (*2*) of section 55.

(*2*) When any estate duty, penalty, interest or any other sum chargeable under this Act has been determined in consequence of any order passed under or in pursuance of this Act, the Controller shall serve on the person accountable a notice of demand in the prescribed form specifying the sum so payable and the time within which and the place at which it is payable.

55. Duty to be paid or security for payment furnished on delivery of account and certificate to be granted thereupon.—Upon delivery of the account under section 50 or clause (*a*) of section 53, the person delivering it shall pay to the Controller, or furnish security to the satisfaction of the Controller for the payment of the estate duty, if any, payable in respect of the property included in the account, and the Controller shall thereupon grant him a certificate that such duty has been or will be paid, or that none is due, as the case may be.

56. Controller's powers in respect of valuations.—(*1*) If the Controller is of opinion that the person delivering the account has under-estimated the value of the property in respect of which estate duty is payable (whether by placing too low a value on the property included in the account or by omitting to include therein property that ought to have been included), the Controller may inquire into the matter in such manner and by such means as he thinks fit and, if still of opinion that the value of the property has been under-estimated, may require him to amend the valuation, and if that person does not amend the valuation to the satisfaction of the Controller, the Controller may determine the valuation on the basis of which estate duty is payable.

(*2*) In any case where no account has been delivered as required by section 50 or clause (*a*) of section 53, the Controller may cause an account of the property passing on the death of the deceased to be prepared in such manner and by such means as he thinks fit and may call upon any person who in his opinion is accountable for the payment of estate duty in respect of the property to accept such account, and if that person does not accept the account or his liability, the Controller may determine the estate duty payable by that person.

57. Appeal against determination by Controller.—(*1*) Any person objecting to the valuation made or the estate duty determined by the Controller or denying his liability to account for the duty payable in respect of any property, may within ninety days of the receipt of the notice of demand under section 54 appeal to the Board in the prescribed form and verified in the prescribed manner.

(*2*) The Board may admit an appeal after the expiry of ninety days referred to in sub-section (*1*) if it is satisfied that there was sufficient cause for not presenting it within that period.

(3) The Board may, in disposing of any appeal hold or cause to be held uch further inquiry as it thinks fit, and after giving the appellant an opportunity f being heard, pass, subject to the provisions of sub-section (4) such orders ereon as it thinks fit and shall send a copy of such orders to the appellant and ie Controller.

(4) Where the dispute pertains to the valuation of any property the ppellant may require the Board to refer the question of disputed value to the rbitration of the Valuers, and the cost of such arbitration shall be paid by the ppellant.

(5) Notwithstanding that an appeal has been filed before the Board, so much f the estate duty as is not in dispute shall be payable by the appellant.

58. Statement of case by the Board to High Court.—(1) Within ninety days f the date upon which he is served with an order under sub-section (3) of section 57, the person accountable may present an application to the Board in the rescribed form, accompanied by a fee of five hundred rupees, requiring the Board to refer to the High Court any question of law arising out of such order, nd the Board shall, if in its opinion a question of law arises out of such order, tate the case for the opinion of the High Court:

Provided that the Board may admit such an application after the expiry of inety days if it is satisfied that there was sufficient cause for not presenting it vithin the said period.

(2) If, on an application made under sub-section (1), the Board—

(a) refuses to state a case on the ground that no question of law arises or

(b) rejects it on the ground that it is time-barred, the person accountable may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Board, require the Board to state the case to the High Court and on receipt of such requisition the Board shall state the case:

Provided that if, in any case where it has been required by a person accountble to state a case, the Board refuses to do so on the ground that no question f law arises, such person may, within thirty days from the date on which he eceives notice of the refusal to state the case, withdraw his application and if he oes so the fee paid by him under sub-section (1), shall be refunded.

(3) Section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply o an application to the High Court under sub-section (2).

(4) If, on an application made under sub-section (1), the Board is of opinion iat either on account of the importance of any question of law involved in the ase or on account of a conflict in the decisions of different High Courts in respect f any particular question of law arising therefrom, it is expedient that a case hould be stated direct to the Supreme Court, the Board may state the case direct o the Supreme Court.

(5) The case shall set forth the facts, the determination of the Board and the uestions of law which arise out of the case.

(6) If the High Court or the Supreme Court is not satisfied that the case s stated is sufficient to enable it to determine the questions of law raised thereby, ie Court may require the Board to make such additions thereto, or alterations herein, as it may direct in this behalf.

(7) The High Court or the Supreme Court upon hearing any such case shall decide the question of law raised therein and in doing so may, if it thinks fit, alter the form of the question of law and shall deliver its judgment thereon containing the ground on which such decision is founded and shall send a copy of such judgment, under the seal of the Court and the signature of the Registrar, to the Board which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(8) The costs of any reference to the High Court or to the Supreme Court shall be in the discretion of the Court.

(9) Notwithstanding that a reference has been made under this section to the High Court or to the Supreme Court, estate duty shall be payable in accordance with the determination made by the Board.

(10) For the purposes of this section "High Court" means the High Court to which, or to a court subordinate to which, an application for grant of representation has been made, or where no such application has been made, the High Court which would have jurisdiction to entertain such an application.

59. Case to be heard by Benches of High Courts and appeal to lie in certain cases to the Supreme Court.—(1) When a case has been stated to the High Court under section 58, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges:

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

(2) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 58 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

(3) The provisions of the Code of Civil Procedure, 1908 (Act V of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court:

Provided that nothing in the sub-section shall be deemed to affect the provisions of sub-section (7) of section 58:

Provided further that the High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (7) of section 58.

60. Grant of representation not to be delayed on reference to High Court.—Where any grant of representation has been applied for, it shall not be delayed by reason of any reference to a High Court under section 58.

61. Certificate of payment of duty, and penalty for non-payment.—(1) Where the valuation is amended by the person accountable upon the Controller's requisition under sub-section (1) of section 56 or is enhanced by the High Court upon the Board's reference under section 58, and in any case where the original valuation has been discovered to be too low, such person shall, within one month of the amendment or enhancement or discovery, pay the deficit duty which is payable in respect of the property upon the amended or enhanced or full valuation and the Controller shall thereupon grant him a certificate accordingly.

(2) Where the valuation is reduced by the High Court on the Board's reference under section 58, the Controller shall refund to the person accountable any excess duty paid by him and shall grant to him a certificate that the full duty payable in respect of the property has been paid.

(3) In any case where no account has been delivered as required by section 50 or clause (*a*) of section 53 the person who is called upon to accept the account prepared by the Controller under sub-section (2) of section 55 shall, within one month of his acceptance or, as the case may be, of the final disposal of the reference made under sub-section (*1*) of section 58, pay the full duty payable in respect of the property and the Controller shall thereupon grant him a certificate accordingly.

(4) If the person accountable does not pay the amount of duty due from him under sub-section (*1*) or sub-section (3) within the period specified therein, he shall be liable to a penalty of one thousand rupees or a sum equal to five times the amount due according as the Controller may elect:

Provided that the Controller may in any particular case reduce the penalty.

(5) Where a person accountable for the estate duty in respect of any property passing on a death applies to the Controller at any time and delivers and verifies a full statement to the best of his knowledge and belief of all property passing on such death and the several persons entitled thereto, the Controller may determine the estate duty payable in respect of the property and on payment of that duty, the Controller shall give him a certificate accordingly.

62. Commutation of duty in respect of interest in expectancy.—The Controller in his discretion may, upon application by a person entitled to an interest in expectancy, commute the estate duty which would or might, but for the commutation, become payable in respect of such interest for a certain sum to be presently paid, and, for determining that sum, shall cause a present value to be set upon such duty, regard being had to the contingencies affecting the liability to and rate and amount of such duty, and interest being reckoned at three per cent.; and on the receipt of such sum the Controller shall give a certificate accordingly.

63. Assessment in complicated cases.—Where by reason of the number of deaths upon which property has passed or of the complicated nature of the interests of different persons in property which has passed on death, or from any other cause, it is difficult to ascertain exactly the amount of estate duty payable in respect of any property or any interest therein or so to ascertain the same without undue expense in proportion to the value of the property or interest, the Board, on the application of any person accountable for the duty and upon his giving to the Board all the information in his power respecting the amount of the property and the several interests therein and other circumstances of the case, may be way of composition for all or any of the duties payable in respect of the property or interest and the various interests therein or any of them, assess such sum on the value of the property or interest, as having regard to the circumstances appears proper, and may accept payment of the sum so assessed in full payment of all claims for estate duty in respect of such property or interest, and shall give a certificate accordingly.

64. Controller may allow postponement of payment on terms.—Where the Controller is satisfied that the estate duty leviable in respect of any property cannot, without excessive sacrifice, be raised at once, he may allow payment to be postponed for such period, to such extent, and on payment of such interest not exceeding four per cent. or any higher interest yielded by the property, and on such other terms as he may think fit.

65. Board may remit duty and interest outstanding after twenty years from death.—If after the expiration of twenty years from a death upon which estate duty became leviable any such duty remains unpaid, the Board may, if it thinks fit, on the application of any person accountable or liable for such duty or interested in the property, remit the payment of such duty or any part thereof or any interest thereon.

66. Forms.—All affidavits, accounts, certificates, statements and forms used for the purposes of this Part of this Act shall be in such form and contain such particulars as may be prescribed by the Board and, if so required by the Board, shall be in duplicate and accounts and statements shall be delivered and verified on oath and by production of books and documents in the manner prescribed by the Board and any person who wilfully fails to comply with the provisions of this section shall be liable to the penalty mentioned in section 52.

67. Recovery of duty and penalties.—Any estate duty or deficit duty and any interest or penalty payable under this Act may, on the certificate of the Controller, be recovered from the person liable thereto as if it were an arrear of land revenue by any Collector in any State.

PART VIII.—CHARGE OF ESTATE DUTY ON PROPERTY AND FACILITIES FOR RAISING IT.

68. Estate duty a first charge on property liable thereto.—(*1*) Subject to the provisions of section 19, the estate duty payable in respect of property, movable or immovable, passing on the death of the deceased, shall be a first charge on the immovable property so passing (including agricultural land) in whomsoever it may vest on his death after the debts and incumbrances allowable under Part VI of this Act; and any private transfer or delivery of such property shall be void against any claim in respect of such estate duty.

(*2*) A rateable part of the estate duty on an estate, in proportion to the value of any beneficial interest in possession in movable property which passes to any person (other than the legal representative of the deceased) on the death of the deceased shall be a first charge on such interest:

Provided that the property shall not be so chargeable as against *bona fide* purchaser thereof for valuable consideration without notice.

(*3*) The Board may release the hole or any part of any property, whether movable or immovable, from charge under this section in such circumstances and on such conditions as it thinks fit.

69. Discharge from estate duty in certain cases.—A certificate granted by the Controller under section 61, or by the Board under section 63, shall discharge the property included therein and the grantee so far as regards that property from any further claim for estate duty, but shall not discharge any person or property from estate duty in case of fraud or failure to disclose material facts and shall not affect the duty payable in respect of any property afterwards shown to have passed on the death nor any further duty payable by reason thereof in respect of the property included in the certificate:

Provided nevertheless that a certificate purporting to be a discharge of the whole estate duty payable in respect of any property included in the certificate shall exonerate a *bona fide* purchaser for valuable consideration without notice from the duty notwithstanding any such fraud or failure.

70. Person accountable to be repaid by trustees and owners in certain cases.—If a person accountable under section 50 pays any part of the estate duty in respect of any property not passing to him, it shall, where occasion requires, be repaid to him by the trustees or owners of the property.

71. Facilities for paying duty or raising amount already paid.—(*1*) A person authorised or required to pay estate duty in respect of any property shall, for the purposes of paying the duty, or raising the amount of the duty when already paid, have power, whether the property is or is not vested in him, to raise the amount of such duty and any interest and expenses properly paid or incurred by him in respect thereof, by the sale or mortgage of or a terminable charge on that property or any part thereof.

(*2*) A person having an interest in any property, who pays the estate duty in respect of that property, shall be entitled to the like charge, as if the estate duty in respect of that property had been raised by means of a mortgage to him.

(*3*) Any money arising from the sale of property comprised in a settlement or held upon trust to lay out upon the trusts of a settlement may be expended in paying any estate duty in respect of property comprised in the settlement and held upon the same trusts.

PART IX.—MISCELLANEOUS.

72. Jurisdiction of courts barred save as expressly provided.—Save as provided in this Act, nothing done or in good faith purporting to be done by any estate duty authority under this Act shall be called in question in any court.

73. Disclosure of information by a public servant.—The provisions of section 54 of the Indian Income-tax Act, 1922 (XI of 1922), shall apply to all accounts, statements, documents, evidence or affidavits, given, produced or obtained in connection with or in the course of the proceedings under this Act:

Provided that nothing in the said section 54 shall apply to the disclosure of any such particulars to any person acting in the execution of this Act or of the Indian Income-tax Act, 1922, where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the said Act.

74. Rule-making powers of the Board.—Subject to the condition of previous publication, the Board may make rules not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out the purposes of or giving effect to this Act.

THE SCHEDULE.

(*See* section 5.)

States in which estate duty is leviable on agricultural land.

Bombay.
Orissa.
Uttar Pradesh.
Hyderabad.
Rajasthan.
Madhya Pradesh.

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to impose an estate duty on property passing or deemed to pass on the death of a person. Though the levy and collection of income-tax at high rates since the War and the investigations undertaken by the Income-tax Investigation Commission in a number of important cases of tax evasion have, no doubt, prevented to some extent the further concentration of wealth in the hands of those who are already wealthy, yet these do not amount to positive steps in the direction of reducing the existing inequalities in the distribution of wealth. It is hoped that by the imposition of an estate duty such unequal distributions may be rectified to a large extent. Such a measure would also assist the States towards financing their development schemes. In their draft outline Report, the Planning Commission have, it will be recalled, stressed the necessity of undertaking legislation to levy death duties in India as early as possible.

2. A Bill seeking to impose such a duty was first introduced in 1946 and then re-introduced in the provisional Parliament in 1948. The latter Bill after being considered by the Select Committee lapsed on the dissolution of that Parliament. The present Bill is practically a reproduction of that Bill as reported on by the Select Committee, but certain changes have been made, which are as follows:—

(1) When the earlier Bill was drafted, the Centre had no jurisdiction to legislate in respect of agricultural land, but now some States have passed the necessary resolutions under article 252 of the Constitution, and the Bill therefore applies also to agricultural lands in such States. As and when the remaining States pass the necessary resolutions, the Schedule will be amended by a Notification of the Central Government to include such States.

(2) In respect of the movable property of the deceased, the levy of duty will depend upon his domicile only. The alternative basis of residence in the Bill as amended by the Select Committee has been omitted.

(3) As in the case of Income-tax law, the fixation of the rates of duty and of the maximum limits of exemption will be regulated by the annual Finance Acts.

(4) For the sake of administrative convenience, the power to assess duty is assigned to the Controller of Estate Duty, a new authority which will function under the Central Board of Revenue.

(5) Appeals from the orders of the Controller of Estate Duty will lie to the Central Board of Revenue, and, as in the Indian Income-tax Act, 1922, references to the High Court may be made on questions of law.

3. Under article 269 of the Constitution, the net proceeds of the estate duty will be assigned to the States on such principles of distribution as Parliament may hereafter formulate. The appropriate estate duty on agricultural land situate in a State will, of course, be assigned to that State.

C. D. DESHMUKH.

NEW DELHI;
The 2nd August, 1952.

Notes on Clauses.

In the drafting of the Bill including the definition and interpretation clauses (clauses 2 and 3) the U. K. Acts on the subject have been followed as closely as possible so that the assistance of the U. K. decisions may be available.

Clause 2.—The various sub-clauses define the terms used in the Bill. Sub-clauses (2), (3), (5), (6), (7), (10), (14), (17), (18) and (19) are self-explanatory.

Sub-clause (1).—Under section 19-I of the Court-fees Act, 1870, any person applying for the grant of a probate or letters of administration is required to file an affidavit in the prescribed form showing the valuation of the property and the credits which the deceased possessed or was entitled to at the time of his death and which had come or are likely to come in the hands of the applicant. This affidavit of valuation contains details of movable and immovable property along with a schedule of debts. Succession certificates are issued by the Court on payment of requisite stamp duty on the basis of such affidavit of valuation. Under clause 53 of the Bill, an executor is required to annex to the affidavit of valuation an account of all the property on which estate duty is payable and to send a copy thereof to the Controller of Estate Duty.

Sub-clause (4).—In the rules to be framed under clause 17(4) "controlled company" will be defined in practically the same manner as in section 58 of the U.K. Finance Act, 1940, as amended from time to time. The reason why "controlled company" is not being defined in the Bill itself is that these provisions have been undergoing changes from time to time. These constant changes indicate the desirability of making the provisions flexible so as to meet new methods of evasion; hence their relegation to rules in the present Bill.

Sub-clause (8).—The definition of "executor" has been made sufficiently elastic to include every person who as executor, nearest of kin, or creditor or otherwise interferes with or enters upon the possession or management of the estate of the deceased with or without any grant of representation.

Sub-clause (9).—A person who has "general power" as defined in this sub-clause, is a person who is competent to dispose of property whether he is *sui juris* or not.

"General power" means complete authority to dispose of a property in any manner by the holder thereof.

Sub-clause (11).—Interest in expectancy is in contrast with the interest which has fallen into possession, but it does not mean that every interest not in possession is necessarily an interest in expectancy. An "interest in expectancy" is an interest which excludes its owner from the present beneficial enjoyment, being contingent upon the happening of another event. For instance if A bequeaths a property to B for life, and on his death to C then C's interest in the property is only an "interest in expectancy" which may or may not materialize.

Sub-clause (12).—The definition of "legal representative" was included by the Select Committee on the Estate Duty Bill of 1948. The definition is on the lines of that contained in the Civil Procedure Code, 1908, but it has been made clear that where the deceased is a co-parcener of a Hindu family the expression would include the manager for the time being of the family.

Sub-clause (13).—This is taken from the *Explanation* to section 69 of the Indian Succession Act, 1925.

Sub-clause (15).—Explanations (1) and (2) bring within the definition of "property" a debt or a right enforceable against a person when created by him or with his consent as also the benefit resulting from the extinguishment of a debt or a right at the expense of a deceased person.

Sub-clause (16).—Estate duty has been made payable on property that passes on death (see clause 5) and the definition of this expression has been so worded as to include all possible rights and interests that may pass on death.

Sub-clause (19).—The main question of fact that may have to be determined in the imposition of estate duty would be the market value of property; it has therefore been provided that the person accountable for estate duty would have the right to ask for the arbitration by a "Valuer" to be appointed by the Government. These valuers will be non-officials like the Board of Referees under the Excess Profits Tax Act.

Clause 3.—Clauses (a), (c) and (d) of sub-clause (1) are adapted from section 22(2), U. K. Finance Act, 1894. Clause (b) is new.

Property which a person is legally competent to dispose of is deemed to pass on his death (*vide* clause 6) and is the property on which estate duty is leviable.

Sub-clauses (a) to (d) describe the various types of properties over which a person is deemed to have power of disposition. These are—

(*a*) property over which a person has complete power of disposition,

(*b*) property over which title is acquired in one form and it is disposed of in another form,

(*c*) a disposition taking effect out of the person's own interest,

(*d*) money which a person is competent to charge on the property of another person.

Sub-clause (2) is inserted to remove the possibility of doubt as to the scope of the provisions contained in Parts II and III of the Bill.

Clause 4.—This clause describes the various authorities for the purpose of administration of estate duty who will perform their functions under the control of the Central Board of Revenue.

Clause 5.—From section 1, U.K. Finance Act, 1894.

See in this connection the definition of "property passing on the death" in clause 2(16). The "passing" may be immediately on the death, as where A settles a fund upon himself for life, and then upon B absolutely; or it may be after an interval or at any period ascertainable only be reference to death, as where there is a trust for accumulation for a term after A's death. The passing may be certain, as in the first example above; or it may be contingent, as where A settles a fund upon himself for life, and then upon B, if and when B attains the age of 21 with accumulations. The passing may be original as in the first example above; or it may be by way of substitutive limitation, as where property is limited to A for life, remainder to B if living at A's death and in default (which happens) to C. In all these cases estate duty is chargeable on A's death.

Clause 6.—From section 2 (1)(a), U. K. Finance Act, 1894.

Property which the deceased was competent to dispose of or was deemed entitled to dispose of is deemed to pass on his death and estate duty is payable thereon.

Illustrations.—1. Property comprised in a revocable gift or settlement is clearly property of which the donor or settler is competent to dispose, irrespective of whether the gift or settlement was actually revoked or not.

2. A devises a houses to his son, subject to a power for A's wife by deed or will to charge on it a sum of Rs. 1 lakh. On the wife's death, estate duty is leviable in respect of this sum as property of which she was competent to dispose and this is so whether she exercised the power or not. [See clause 3 (d).]

3. Under section 109 of the Indian Succession Act, 1925, a gift by will to the testator's child is preserved from lapsing where the beneficiary predeceases the testator provided that the beneficiary leaves issue living at the testator's death. The gift takes effect as if the beneficiary had died immediately after the testator and the property devolves under the beneficiary's will or intestacy. It is therefore property of which the beneficiary was competent to dispose and is chargeable with estate duty in connection with his death as well as in connection with the death of the testator, subject to any allowance for quick succession.

Clause 7.—From section 2 (1) (b), U. K. Finance Act, 1894.

Sub-clauses (2) and (3) were inserted by the Select Committee on the Estate Duty Bill, 1948, with other consequential modifications in sub-clause (1).

The cesser of interest on the deceased's death is property deemed to pass on his death and hence estate duty is payable thereon. In the case of a joint family property governed by the *Mitakshara,* no member has a distinct and specified interest in the coparcenary property of which he is competent to dispose but on the death of a member there is a cesser of interest in the joint family property. The clause provides that such cesser of interest is only liable to estate duty if the deceased was 18 years of age or if a minor no male ascendant of his was a coparcener in the same family. This provision is necessary as in *Mitakshara* family each child acquires interest in property and it would be administratively impossible to determine the quantum of interest on the death or birth of a child in the family.

Other examples of cesser of interest are—

(1) A by will gives an annuity of Rs. 500 to B charged on house property worth Rs. 1,200 per annum and the house property itself, subject to the aforesaid charge, to C. On B's death the annuity ceases and estates duty is therefore chargeable on the value of the benefit arising by the cesser. Thus if the house property is worth Rs. 24,000 at B's death the value of the benefit would be $\frac{500}{1,200} \times 24,000 = 10,000$.

(2) A is entitled to an annuity of Rs. 800 charged on certain house property and on A's death an annuity of Rs. 200 per annum becomes charged on the property in favour of B. In this case, upon A's death the owner of the property is chargeable to estate duty in respect of the cesser of the whole of A's annuity of Rs. 800 and not merely the cesser of Rs. 600 per annum which is the difference between the two annuities.

Clause 8.—From section 2 (1)(c), U. K. Finance Act, 1894.

As stated in the *Explanation* (which was added by the Select Committee on the 1948 Bill) gifts made in contemplation of death are dealt with in section 191 of the Indian Succession Act, 1925.

Clause 9.—From section 2 (1) (c), U. K. Finance Act, 1894, and section 59, U. K. Fipance Act, 1910.

This clause brings under charge gifts made *inter vivos* within a period of two years before death or in the case of gift so made for a public charitable purpose made within six months before death. The time limit of two years and six months for three years and twelve months respectively was substituted by the Select Committee which also substituted the expression "public charitable purpose" for "public or charitable purposes".

Clause 10.—From section 2 (1) (c), U. K. Finance Act, 1894, and section 59, U. K. Finance Act, 1910.

This clause brings under charge property given in gift, but in which the donor retains some interest by contract or otherwise. Where the donor retains such interest in a part of the property only, estate duty is payable on that part only. But if such interest is surrendered two years before death no estate duty would be payable.

The right to possess under the terms of a gift is not possession; and it is payment, and not the obligation to pay, which confers enjoyment.

Clause 11.—From section 43, U. K. Finance Act, 1940.

This clause brings within the charge interest limited to cease on death which has been disposed of within two years of the death and which but for the disposition would have been caught by clause 5 as property passing on death, or as interest ceasing on death. However, if the interest is disposed of or determined in good faith two years before the death, no estate duty is payable. The provision is explained by the following illustration:—

A, a Hindu widow, having a Hindu woman's estate in house property surrenders her estate to the reversioners two years before her death. The property in such a case cannot be said to pass to the reversioners on her death, since it actually passes to them two years before. Therefore section 5 does not apply. Nor does section 7 apply, because the widow had, in the circumstances, no interest ceasing on her death: it had ceased two years previously. But, under sub-clause (1) the property is deemed to pass on her death and becomes chargeable to estate duty if the interest had not been surrendered 2 years before death. Under sub-clause (3), any artificial encumbrance created by the deceased is to be ignored.

Clause 12.—From section 2 (1)(c), U. K. Finance Act, 1894.

This clause brings under charge property under a revocable settlement or property in which the deceased retained some beneficial interest for his own benefit or for the benefit of his relatives.

Clause 13.—Determines the liability of property held jointly. The liability of the whole property to duty arises only in case where a person having been absolutely entitled to any property or to the funds with which any property was purchased has caused it to be transferred to or vested in himself and in any person jointly so that the beneficial interest in some part of the property

passes or accrues by survivorship on his death to the other person. This clause does not apply to a case where the transferor was entitled only to a portion of the property or of the funds with which the property was purchased.

Clause 14.—From section 2 (1) (c), U. K. Finance Act, 1894, and section 76 of the U.K. Finance Act, 1948.

This clause brings under charge the money received under a life insurance policy kept up by a person for the benefit of a donee. The premium may be payable by the person out of any property settled by him or out of income arising under a settlement made by him. Where only a part of the premium is so paid the proportionate amount received under the policy will only be chargeable to duty.

Clause 15.—From section 2 (1) (d), U. K. Finance Act, 1894.

The general purpose of this provision is to prevent a man from escaping estate duty by reducing his estate, during life, by money or money's worth paid as premiums which, after his death, reappear in the form of a beneficial interest accruing or arising on his death.

Clause 16.—From section 30, U. K. Finance Act, 1939, and section 26, U. K. Finance Act, 1943.

The purpose of this provision is to extend liability to duty to annuities and other interest which, though not directly provided by the deceased, are in substance attributable partly or wholly to property derived from him. The following illustration shows how this provision would operate:—

The deceased gave his children Rs. 20,000 with which they acquire shares in a private company. The company then lends the deceased Rs. 20,000 and uses the interest to pay the premiums on a policy effected on the deceased's life. The policy moneys would be considered under this provision to have been provided by the deceased.

Clause 17.—From section 42, U. K. Finance Act, 1940, and section 36, U. K. Finance Act, 1944.

Sub-clauses (1), (2) and (3).—The necessity for these provisions will be illustrated by the following example:—

A is the owner of an estate worth Rs. 12 lakhs including a residential house, and of stocks and shares worth Rs. 8 lakhs. He forms a company with a nominal capital of Rs. 20 lakhs divided into 50,000 five per cent. preference shares and 1,50,000 ordinary shares, all of Rs. 10 each. He sells the estate and the securities to the company in consideration for the shares, of which 50,000 ordinary shares are allotted to him and the rest to his wife and children. As part of the arrangement, he is appointed governing director for life at a salary of Rs. 50,000 per year and the residential house, whose annual value is Rs. 5,000 is let to him as governing director at a rent of Rs. 1,000 per year. On A's death more than two years later, estate duty would *but for the provisions of this section*, be payable only in respect of the 50,000 shares which he retained. There was no gift to the company, for the company gave full consideration. The only gift was a gift of the shares to his wife and children and that gift was not the subject to any reservation. But according to this provision the estate duty payable would be not on the market value of 50,000 ordinary shares but on such proportion of the assets of the company as the aggregate amount of benefits accruing to the deceased for the three years ending with his death bear to the income of the company for the same three years. Thus if the income of the company for the last three years were Rs. 3 lakhs, and

the dividend declared on ordinary shares is Rs. 90,000, then the benefits enjoyed by the deceased are—

		Rs.
Salary as governing director		1,50,000
Residential house less rent paid		12,000
Dividend		30,000
		1,92,000

The assets which would be deemed to pass on his death would be of the value of—

$$\frac{1,92}{3,00} \text{ of 20 lakhs:}$$

or of Rs. 12,80,000 and not of Rs. 5 lakhs only.

Sub-clause (4).—There are numerous provisions on this subject in the U. K. Finance Act, 1940, which had better be relegated to rules so as to make them flexible to meet new methods of evasion. The constant changes made in the U. K. law in this behalf indicate that this course is preferable.

The proviso to sub-clause (4) was added by the Select Committee on the Estate Duty Bill, 1948.

Sub-clause (5).—From section 52, U. K. Finance Act, 1940.

The effect of this sub-clause is that the value of such property will be aggregated with other property of the deceased passing on his death.

Clause 18.—From section 53, U. K. Finance Act, 1940.

This clause lays the obligation on the company and its officers to inform the Controller of any transfer of property or benefits that accrued to the deceased from the controlled company.

Clause 19.—From section 54, U. K. Finance Act, 1940.

This clause determines the persons who shall be accountable for the payment of duty of a deceased on the death of the deceased on property transferred to a controlled company, and the powers conferred on the accountable parties for the purpose of raising and paying the duty.

Clause 20.—From section 2 (2), U. K. Finance Act, 1894, and section 24, U. K. Finance Act, 1936.

In the original Bills of 1946 and of 1948 the liability to estate duty on moveable property depended on the "domicile" of the deceased. The Select Committee however alterd this and imposd the liability on all persons who are residents in India, the definition of "resident" being more or less the same as in the Income-tax Act. The present clause reverts to the original provision that charge on foreign moveable property would be on the basis of domicile. Sub-clause (2) provides that the rules regarding the nature and *situs* of the property will be framed by the Board, and such rules will be framed with due regard to reasonable double estate duty relief arrangements which might be arrived at with the U. K. and U.S.A.

Clause 21.—From section 2(3), U. K. Finance Act, 1894, and section 59, U.K. Finance Act, 1910.

Illustrations.—1. A dies leaving property of which he was a trustee for B under a will left by C. The property is not chargeable to estate duty upon A's death.

2. A dies leaving property of which he was a trustee for B under a deed of settlement made by A himself not more than two years before his death. The property is chargeable to duty, for otherwise any person could evade the duty by making such a trust shortly before his death and declaring thereby that he is a trustee for some named heir.

3. A dies leaving property of which he was a trustee for B under a deed of settlement made by A himself more than two years before his death, possession and enjoyment having been assumed by B immediately upon the creation of the trust and thenceforward retained to the entire exclusion of A. The property is not chargeable to duty upon A's death.

4. A dies leaving property of which he was a trustee for B under a deed of settlement made by A himself more than two years before his death, B having assumed possession immediately upon the creation of the trust, but being bound by an agreement to give A a share of the profits until A's death. The property is chargeable to duty upon A's death.

Clause 22.—From section 5 (3), U. K. Finance Act, 1894 and section 48, U. K. Finance Act, 1938.

Explanation (i) is derived from section 14, U. K. Finance Act, 1896.

Ex hypothesi in the case put in the *Explanation,* the interest of the deceased in the settled property fails before it becomes an interest in possession and in view of the decision in A.G. *v* Wood that an absolute reversion may be a limitation which continues to subsist, the *Explanation* is retained merely by way of abundant caution.

Explanation (ii) is derived from section 47 of the U. K. Finance Act, 1938, and was added by the Select Committee in order to make it clear that a residuary interest under reversion within an estate whose administration is not complete will not be regarded as a case of failure of interest before becoming interest in possession, but such interest would be deemed to have become interest in possession on the date as from which the income of the residue would have been attributable to that interest if the residue had been determined immediately after the death of the testator or intestate.

Clause 23.—From section 15, U. K. Finance Act, 1896.

Illustrations.—1. A settles property on trust for B (usually a poor relation or an old servant) for life and then for himself absolutely. No duty is payable on B's death, if he dies before A.

2. A settles property on trust to pay an annuity thereout to himself and, subject thereto, for B for life, with remainder to A. Duty is payable on B's death, because it cannot be said that only benefit retained by A is subject to the life interest.

3. A settles property on B for life with remainder to B's children absolutely and in default, for A absolutely. B dies without children. Duty is payable for the contingent interests of B's possible children were "other interests" created by the disposition.

4. B gives property A, who then settles it on B for life with remainder to himself. Duty is payable on B's death, for B was competent to dispose of the property prior to the settlement.

5. As in *Illustration* 1, but B dies after A and the property reverts to A's heirs. Duty is payable on B's death, for the property does not revert to the disposer himself.

Clause 24.—From section 21 (5), U. K. Finance Act, 1894.

Illustration.—A by deed dated 1951 settled property on his wife for life, and on her death on himself for life, with remainder to their children. The wife dies after the commencement of this Act, leaving A surviving. Estate duty is not payable on her death though it will be payable on the subsequent death of A. The exemption would not have applied if A had become entitled to the corpus on his wife's death.

Clause 25.—From section 3, U. K. Finance Act, 1894.

Property *bona fide* transferred by the deceased for money or moneys worth is not chargeable to estate duty. Although such a transfer might be made in anticipation of death, the consideration received in respect of it becomes the property of the deceased and as such is liable to duty. To subject to taxation both the property whose sale produces that money or money's worth and that money or money's worth itself would be in substance to impose double taxation on the same property. Hence the exemption in this clause. The exemption is to apply not only when the property is acquired for full consideration in money or money's worth, but also to a proportionate extent, where part of the consideration is of that character.

Illustration.—On the marriage of A and B, A the husband, partly in consideration of the marriage and partly in consideration of the transfer to him of certain shares belonging to B, settled certain house property upon himself for life and then upon B absolutely. Here the consideration is only partly in money or money's worth, namely, so far as it consists of the shares. Hence under sub-clause (2), the value of the shares, as at the date of the settlement, is to be deducted from the value of the house property, as at A's death in ascertaining the sum in respect of which B is to pay an estate duty.

Clause 26.—From section 44, U. K. Finance Act, 1940.

Property transferred by the deceased in consideration of money or money's worth is not chargeable to estate duty (*vide* clause 25). This clause, however, provides that annuity or other interest limited to deceased on death, created in favour of the deceased cannot be treated as consideration or transfer when such transfers are made to a "relative" or to a "controlled company". The meaning of the expression "relative", "annuity" and "associated operations" as used in this clause has been defined. Nothing in this clause affects an annuity in favour of a person other than the deceased. The relaxations contemplated in section 40 of the U. K. Finance Act, 1944, will be considered by the Board when framing rules under clause 32. The deduction to be allowed will broadly be the net amount of benefit received by the deceased from the transactions.

Clause 27.—From section 17, U. K. Finance Act (No. 2), 1940.

In order to protect commercial transactions from higher duties imposed subsequent to the sale or mortgage of an interest in expectancy, this clause provides for relief to the purchasers and mortgagees and no other duty will be payable by them except the duty which would have been payable at the rates of estate duty, if any, in the case of a person dying at the time of the sale or mortgage.

Clause 28.—From section 5 (2), U. K. Finance Act, 1894 and section 13, U. K. Finance Act, 1898.

The exemption conferred by this clause is in respect of a settled property on which estate duty has been paid since the date of settlement on the death of one of the parties to a marriage. The exemption is, however, conditional and would not apply if the deceased was at any time during the continuance of settlement competent to dispose of the property.

Clause 29.—This clause empowers the Central Government to enter into an agreement for avoidance or relief of doubt taxation with the Government of any reciprocating country.

Clause 30.—From section 15, U. K. Finance Act, 1914.

It provides relief in respect of quick succession where property consists of land and business..

Clause 31.—This clause which was inserted by the Select Committee on the Estate Duty Bill, 1948, gives complete exemption of duty in respect of coparcenary interest devolving upon the members of the coparcenary or any of them upon the death of a Hindu widow if she dies within seven years of the death of her husband and if the estate duty has been levied in respect of the same on her husband's death.

Clause 32.—This clause is intended to cover, amongst others, the deductions and relaxations provided for in section 51, Finance Act, 1940, and sections 38 and 40, U. K. Finance Act, 1944. The following are some of the exemptions which, if considered desirable, may be allowed under this clause:—

(*a*) Gifts not exceeding a certain limit.

(*b*) Gifts for national purposes.

(*c*) Property of a common seaman, marine, soldier or airman who is killed or dies in the service of the Union.

Clause 33.—From section 4, U. K. Finance Act, 1894, and section 12, U. K. Finance Act, 1900 and section 45 (3), U. K. Finance Act, 1940.

This clause lays down that for purposes of determining the rate of duty payable, all property will be aggregated except property in which the deceased *never* had an interest. The latter property is to be treated as an estate by itself. For instance, A dies leaving (i) Rs. 1 lakh in cash and (ii) a policy on his own life for Rs. 1 lakh absolutely and irrevocably nominated *from its commencement* in favour of B. Estate duty is chargeable on (i) under section 4 and on (ii) under section 13, but the two cannot be aggregated because A had never an interest in (ii), the interest arising only upon his death.

Clause 34.—This clause leaves the rate of duty to be fixed by a separate enactment.

Clause 35.—From section 7 (*5*), U. K. Finance Act, 1894 and section 60-(2), U. K. Finance Act, 1910.

This clause lays down the principle on which the principal value of any property is to be estimated for the purposes of estate duty.

Clause 36.—The clause lays down the manner in which the shares in a private limited company are to be valued when alienation of such shares is restricted. It embodies the principle enunciated in paragraph 275, Halsbury's Laws of England, Vol. XIII, Second Edition.

Clause 37.—From section 7(6), U. K. Finance Act, 1894.

It provides for the payment of estate duty on interest in expectancy either with the duty in respect of the rest of the estate or when the interest in expectancy

falls in possession. In either case, the value of the other estate is to be aggregated.

Clause 38.—From section 7 (7), U. K. Finance Act, 1894.

This clause provides a formula for calculating the amount upon which duty is leviable on account of cesser of an interest. The effect of this clause is to charge duty on a slice of the capital concerned, the income of which is equivalent to the income enjoyed by the deceased immediately, before his death.

Clause 39.—From section 7 (8), U. K. Finance Act, 1894.

Under this clause the value of any property for the purpose of estate duty is to be determined by the Controller.

Clause 40.—From section 7 (9), U. K. Finance Act, 1894.

This is self-explanatory.

Clause 41.—From section 8 (8), U. K. Finance Act, 1894.

The object of this clause is to enable the persons primarily accountable for the payment of the estate duty to apportion the duty where necessary in administering the estate and to provide a method of ascertaining the proportion of duty which may be charged on a particular property and may be recoverable against a person having a charge on the property.

Clause 42.—From section 7 (1), U. K. Finance Act, 1894 and section 44 (1), U. K. Finance Act, 1940.

This clause specifies the deductions to be made (subject to restrictions) for determining the value of an estate. Allowance is to be made for reasonable funeral expenses and for debts and encumbrances but not for such debts which were not *bona fide*.

Clause 43.—From section 57, U. K. Finance Act, 1910.

Illustration.—Property is settled on A for life with remainder to his only son B. A, when in failing health, purchases B's remainder at a fair price, which in the circumstances is nearly the full value of the property, giving a promissory note or mortgage for the amount. Upon A's death, the property goes to B as his only heir. But for the present section, the amount of the debt would fall to be deducted under section 43, although the property would have devolved upon B even without the purchase. By virtue of the present section however no such deduction is permissible.

Clause 44.—From section 31, U. K. Finance Act, 1939.

Broadly the effect of this clause is to reduce the amount allowable as a deduction for a debt in proportion to the value of the consideration given for it which was derived directly or indirectly from the deceased or which was given by a creditor who acquired property from the deceased for the purpose of facilitating the loan.

Clause 45.—From section 7 (2), U. K. Finance Act, 1894.

This is in accordance with the established rule of law that debts claimable in the country where the assets are situate should be paid out of the assets in that country before any surplus is available for transmission to the country of the domicile.

Clause 46.—From section 7 (3), U. K. Finance Act, 1894.

This clause authorises the Controller to allow as a deduction from the value f the estate any additional expense in administering or realising the property ituated out of India subject to a limitation of five per cent. of the value of the roperty.

Clause 47.—From section 7 (4), U. K. Finance Act, 1894.

This clause provides for the deduction from the value of the property of the hole or any part of the duty of the nature of death duty paid in a non-reci-rocating country.

Clause 48.—Enables the Board to prescribe the manner in which estate duty nay be collected.

Clause 49.—Adapted from section 34, U. K. Finance Act, 1917 and sec-ion 42, U. K. Finance Act, 1918.

The term "Government securities" is defined in the General Clauses Act, 897.

Clause 50.—Adapted from section 8 (3) and 8 (4), U. K. Finance Act, 1894, section 16, U. K. Law of Property Act, 1925 and section 54 (8), U. K. Finance Act, 1940.

Sub-clause (2) [*see* section 8 (18), U. K. Finance Act, 1894].

Sub-clause (4) [*see* section 6 (3), U. K. Finance Act, 1894].

Sub-clause (5) [Halsbury's Laws of England, Vol. XIII, para. 298].

This clause defines liabilities of the different categories of persons who are ccountable for the payment of estate duty, and the extent thereof.

Clause 51.—From section 8 (5), U. K. Finance Act, 1894, and section 57, J. K. Finance Act, 1940.

This clause provides the machinery for the collection of information and lata for the purposes of administration of estate duty.

Clause 52.—From section 8 (6), U. K. Finance Act, 1894.

This is a penal clause for non-compliance with the requirements of sec-ions 50 and 51, *i.e.*, failure to furnish the statement of accounts.

Clause 53.—Adapted from section 8 (3), U. K. Finance Act, 1894, and sec-tion 19-I, Court-fees Act, 1870.

Non-issue of grant of representations by the Court in the absence of a certificate from the Controller to the effect that the estate duty has been or will be paid, will act as deterrent to evasion of estate duty.

Clause 54.—From section 6 (4), 6 (6), 6 (7), and 6 (8), U. K. Finance Act, 1894.

This clause fixes the time when the estate duty is due and details the pro-cedure for collection when the amount due is determined.

Clause 55.—Adapted from section 11 (1), U. K. Finance Act, 1894.

The provision for grant of a certificate by the Controller either on payment of the duty or on furnishing adequate security for the duty is necessary as evidence of discharge of duty.

Clause 56.—Sub-clause (1) is adapted from section 19H (3), Indian Court-fees Act, 1870.

The necessity of providing for estimate to the best of the judgment of the Controller where no account has been delivered is evident. Provision exists for appeal against the valuation made and the estate duty determined by the Controller (*vide* clause 57).

Clause 57.—The right of appeal to the Board against valuation made or determination of the estate duty by the Controller is provided for in this clause. In case of a dispute relating to valuation of any property the appellant may require the Board to refer the question to the arbitration of the Valuers.

Clause 58.—Provision has been made in this clause for a reference to the High Court against the orders of the Board of any question of law arising out of such order.

Sub-clause (4) authorises the Board to refer a case direct to the Supreme Court on an application under sub-clause (1) if the question is of sufficient importance or if there is conflicting decision of different High Courts on the question involved.

Clause 59.—Details the manner of the formation of the High Court Bench and how the cases are to be decided upon. An appeal shall lie to the Supreme Court also from the judgment of any High Court in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

Clause 60.—Adapted from section 19-I (2), Court-fees Act, 1870.

Clause 61.—Adapted from sections 19E and 19G, Court-fees Act, 1870, section 11 (2), U. K. Finance Act, 1894 and section 14, U. K. Finance Act, 1907.

In the majority of cases, the procedure will be that the person accountable will first deliver an account under clause 50 (3) and pay duty on the property included therein under clause 55. Usually, the account may not be a complete one, for it has to be filled within six months of the death and full details may not be available [*see* clause 50 (4)]. This preliminary account will serve as a notice of the death to the Controller, so that he may, if necessary, start making inquiries under clause 56. At a later stage, the persons accountable should be in a position to deliver a full statement, to pay the entire duty due, and to obtain a certificate of payment under sub-clause (1) or (5) of clause 61. In complicated cases, they can apply and obtain a certificate of payment under clause 63. It is only a certificate under clause 61 or clause 63 that discharges the property (*see* clause 69). A certificate under clause 55 suffices for a grant of representation so as to enable the grantee as early as possible to get in all the property vesting in him and to submit a full inventory as required by section 317, Indian Succession Act, 1925, but such a certificate does not operate as a discharge for the purposes of clause 69.

Clause 62.—Adapted from section 12, U. K. Finance Act, 1894.

This clause authorises the commutation of an estate duty that would be payable on an interest in expectancy when it falls, for a certain sum to be presently paid.

Clause 63.—Adapted from section 13, U. K. Finance Act, 1894.

This clause empowers the Board on the application of any person accountble for estate duty to accept composition for estate duty in certain complicated ases.

Clause 64.—Adapted from section 8 (9), U. K. Finance Act, 1894.

Where estate duty cannot be raised at once except by sale of property at cessive sacrifice due to adverse market conditions, the Controller is authosed to allow postponement of the recovery of the estate duty on payment of rescribed interest and on such other terms as the Controller may think fit. ower to extend time of payment or to allow payment of the demand in instalents is also exercised by Income-tax authorities as an administrative measure.

Clause 65.—Adapted from section 8 (14), U. K. Finance Act, 1894.

This clause vests the Board with power to remit the payment of estate duty any part thereof or any interest thereon in fit cases if the duty remains npaid after the expiration of 20 years from the date of death. The purpose this provision is not to burden the administration with a heavy carry forward uncollectable demands after all steps for realisation have been exhausted. milar power to write off irrecoverable demands of income-tax are exercised the Income-tax authorities under executive instructions.

Clause 66.—Adapted from section 8 (14), U. K. Finance Act, 1894.

Under this clause the forms, affidavits, accounts and certificates, etc., in nnection with the administration of estate duty are to be in such forms conining such particulars, to be delivered and verified in such manner and by ich documents as may be prescribed by the Board. This is analogous the rule-making power of the Board in the administration of the Income-tax ct (section 59 of the Income-tax Act, 1922).

Clause 67.—Adapted from section 19J (1), Court-Fees, Act 1870.

This clause authorises the Controller to record the estate duty, interest or nalty through certificate proceedings by the Collector and corresponds to ction 46 (2), Indian Income-tax Act, 1922.

Clause 68.—This clause was inserted by the Select Committee on the Estate uty Bill, 1948. The estate duty is made the first charge on movable and nmovable property.

Clause 69.—Adapted from section 11 (2), (3) and (4), U. K. Finance Act, 894.

Wide terms of this clause clearly indicate that fraud or failure to disclose aterial facts on the part of any person will render the certificate of discharge eless to any other person except to a *bona fide* purchaser for valuable conderation without notice.

Clause 70.—Adapted from section 9 (4), U. K. Finance Act, 1894.

Under this clause if any person accountable for estate duty pays any part it in respect of any property not passing to him, he shall have the right to repaid by the trustees or owner of such property.

Clause 71.—Adapted from section 9 (5), (6) and (7), U. K. Finance Act, 894.

Any person who is authorised or is required to pay estate duty in respect of any property is empowered under this clause to raise the amount of such duty by the sale or mortgage or a terminable charge on that property for the purpose of paying duty or recouping the amount of duty if already paid.

Clause 72.—Adapted from section 67, Indian Income-tax Act, 1922.

This is a common feature to all revenue enactments.

Clause 73.—This provision is necessary because of the confidential nature of information, etc., obtained in connection with the execution of the enactment.

Clause 74.—This clause authorises the Board to make rules prescribing all matters for carrying out the purposes of or giving effect to the clauses of the Bill.

M. N. KAUL, Secy.